

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 1722 of 2015 (O&M)

Date of Decision: 02.02.2015.

Nitin Pahuja

--Petitioner

Versus

State of Haryana & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Naveen Daryal, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

Counsel would assert that the petitioner has been working in the office of Commandant, 4th Battalion, H.A.P., Madhuban as a Clerk on contractual basis w.e.f. 1.1.2014. It is further submitted that appointment of the petitioner was for an initial period of six months or till such time the post is filled up on regular basis, whichever is earlier. Counsel submits that the present tenure of contractual employment is to expire on 5.2.2015.

Instant writ petition has been filed raising a two fold prayer. Firstly, it has been contended that inspite of discharging the duties and responsibilities of the post in question, the petitioner has not been released the salary for the period of November and December, 2014. Second claim raised in the petition is in terms of voicing an apprehension that his services would be replaced by yet another contractual arrangement.

Learned counsel for the petitioner has been heard at length.

No suggestive material has been placed on record, wherefrom this Court can infer that the services of the petitioner would be dispensed with on expiry of the present contractual tenure i.e. on 5.2.2015 and that he would be replaced by another contractual employee. Accordingly, no cause

of action accrues to the petitioner as of date in such regard. Be that as it may, it is by now well settled that it is not open for the State Govt. to resort to a practice, whereby one set of contractual employees are replaced by another set of contractual employees. Accordingly, the present petitioner would have a right to continue beyond his present contractual tenure subject to the condition of there being availability of work, his good work and conduct and subject to the condition that a regular appointee in pursuance to a regular selection process would have a prior right to the post.

The instant writ petition is disposed of with the aforesaid observations.

It is further directed that respondents no.4 and 5 would also look into the grievance of the petitioner as regards non-release of salary. In case it is found that there is no justifiable basis for withholding the salary for the period in question, the same would be released to the petitioner forthwith.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

February 02, 2015.
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