

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 15445 of 2012 (O & M)

Reserved on: 09.05.2016

Date of decision: 25.05.2016

Baljinder Singh

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. R.K. Chopra, Sr. Advocate,
with Mr. Pawan Kumar, Advocate,
for the applicant-petitioner.

Mr. L.S. Virk, Addl. A.G., Punjab.

Mr. Gagandeep Singh, Advocate,
for respondent no. 2.

G.S.SANDHAWALIA, J.

The petitioner seeks the quashing of the order dated 23.07.2012 (Annexure P-16) passed by respondent no. 2 whereby, the contract of the petitioner was not extended from 01.04.2012 on the ground that his work and conduct is not satisfactory for the post of a teacher. A direction is also sought for regularization of the petitioner from 01.07.2011 alongwith other computer teachers.

As per the pleadings, the petitioner was appointed on 13.03.2015 (Annexure P-1) as a computer teacher on contract basis in the year 2005 and joined on 01.04.2005 with respondent no. 2 under the ICT (Information and Communication Technology) project. The contract was for one year and could be renewed depending upon the performance and

conduct. The contract could also be terminated without notice on both sides but one months notice or pay/deposit of salary in lieu of the remaining period would have to be given. It is the case of the petitioner that on account of being an active member of the Computer Teacher Union, there was personal grudge against him and he was transferred to Government Secondary School, Kalalwala, District Bathinda. The dispute continued with the higher authorities and there was difficulty in marking the attendance but otherwise, the work and conduct of the petitioner was good and his result was also good. However, the DEO, Bathinda had recommended strong action against the petitioner on 14.07.2011. As per the notification dated 02.12.2010 (Annexure P-8), employees who had completed 2-1/2 years of service as on 01.07.2011 were entitled for regularization. The petitioner had been working as computer teacher from 01.04.2005 and having completed the said period, was entitled for regularization. His case had also been recommended and there had been extension of his contract from 01.04.2012. Instead of regularization, the impugned letter had been issued that his contract had not been renewed from 01.04.2012. Accordingly, it was pleaded that the ACRs of the petitioner for the year 2010-11 were upto the mark and his result was also upto the mark but wrongly, the contract had not been extended.

Respondents no. 1 and 3 to 5 took the plea that a complaint had been filed by the petitioner before the Punjab State Human Rights Commission upon the facts agitated in the present writ petition. The complaint had been disposed of on 03.04.2012 after due inquiry. The petitioner from the first day was not interested in work and performance was poor. He was in habit of disobeying the orders of seniors and lodging false

complaints. His sincerity towards the work was lacking. A show cause notice dated 14.11.2008 had been issued to him on account of an inspection done on 21.10.2008 where certain irregularities were found. The petitioner had been transferred to the Government High School, Kalalwala, however, his conduct did not improve and he filed a false complaint against the ICT Coordinator. The complaint was inquired into by the Principal of the Senior Secondary School, Gulabgarh, Bathinda and after considering the record, it was found that it was false and frivolous. Show cause notice was also issued on 30.03.2010 apart from one on 27.04.2010. He had filed a complaint against Harvinder Kaur, Head Teacher of the school. Reliance was placed upon communication dated 10.05.2010 addressed to respondent no. 2 (Annexure R-1) wherein, complaints were received against the petitioner and that strict disciplinary action should be taken against him. Another complaint had been filed before the Punjab State Human Rights Commission and the matter had been inquired into and after conducting inquiry, complaint was disposed of. The order dated 03.04.2012 (Annexure R-2) was also appended to show that two inquiries were made into the allegations made by the petitioner, which were found to be false. Resultantly, it was pleaded that the petitioner had no right for seeking extension of his contract as a matter of right.

In the reply filed by respondent no. 2, similar plea was taken regarding the work and conduct of the petitioner and that there was recommendation against him due to his non-cooperative attitude and habit of making false complaints. Reference was made to the ACR of 2009 and 2010 to submit that it was not favourable though the ACR of 2010-11 may be in favour of the petitioner.

Counsel for the petitioner has accordingly submitted that in view of the regularization policy, the petitioner was entitled for regularization and his work and conduct having been found satisfactory, his term had been extended time and again and, therefore, the impugned order could not be justified.

However, a perusal of the appointment letter would go on to show that the contract was to be renewed depending upon the performance and conduct. The terms of clause 2 reads thus:-

“2) The appointment will be for an initial period of one year. The contract may further be renewed depending upon your performance and conduct.”

It is not disputed that thereafter, the contract was renewed from time to time but before the regularization could be ordered, the petitioners contract was coming to an end on 31.03.2012. Nothing has been placed on record to show that thereafter his contract was renewed. On 31.05.2012 (Annexure P-15), the general position was taken that for renewal, the following conditions would be applicable:-

“Subject: For renewal of contract of computer teachers under ICT Project.

2. In regard of above said subject.

PICTES Society had appointed computer teacher/faculty on contract basis for giving computer education in govt. schools under ICT Project. The contract of the PICTES Society with these teachers has come to an end on 31.03.2012. This contract has been renewed and those computer teachers whose contracts is finished on 31.03.2012, the contract of those teachers has been increased from 01.04.2012 to 31.03.2013 (for

one year) on the basis of earlier conditions and time to time instructions.

3. *The computer teachers should fulfill the following conditions for renewal of his contract.*

a) *Work of the computer teacher should be satisfactory.*

b) *The computer teacher should not be absent from long time.*

c) *No departmental inquiry should be pending against the computer teacher.*

In continuation of this, the impugned order was then passed on the basis of the information received by respondent no. 2 that the petitioner was not cooperating. The letter dated 10.05.2010 (Annexure R-1) addressed by the District Education Officer to respondent no. 2 would also go on to show that there were various complaints against the petitioner and the inquiry officer being the Principal of Gulabgarh had held against him. In spite of the transfer, he was not mending his ways and creating problems.

In such circumstances, it would be apparent that the petitioner, being a contractual employee, cannot claim an absolute right of regularization on the strength of the instructions issued. He was a contractual appointee and the contract had never been extended beyond 01.04.2012. Therefore, he cannot now turn around and say that the order as such is violative of his rights since the order has been passed as per the terms of the contract inter se the parties. The said order, as noticed, is on the basis of sufficient material available with the respondents, which has led to the non-extension of the contract and, therefore, cannot be said to be arbitrary in any manner which would warrant interference under Article 226

of the Constitution of India and the present writ petition is accordingly dismissed.

25.05.2016
shivani

(G.S. SANDHAWALIA)
JUDGE

