

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

Date of decision: 10.11.2016

CWP No.20873 of 2016

Renu Devi & others

...Petitioners

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Mukesh Yadav, Advocate, for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

Challenge in this petition is to a termination order passed on 29.09.2016. The petitioners pray that not only the said order should be set aside, but they should be reinstated to service with a direction not to be replaced by other contractual employees till regular recruitment is made. The petitioners had worked as Instructor/Computer Operator in Industrial Training Institute (Women), Narnaul for about 8 months before the termination order was passed.

On notice, the respondents put in their written statement. The claim of the petitioners has been refuted for the reason that the petitioners were appointed either as Instructors or Computer Operators on contract basis in a illegal manner and without any authorization or approval from the competent authority in the Government. The appointments which are de hors the service rules enjoy no legal sanctity. It is only the Director, Industrial Training that has the power to appoint being the competent authority. In the case of the petitioners, they were selected locally by one Mr. Kishori Lal, Principal of the Industrial Training Institute (Women), Narnaul, acting

grossly in abuse of lack of authority to appoint by misusing his office. The illegality committed came to the knowledge of the Government, when the new Principal took over the charge of the said Institute and found that illegal appointments had been made by his predecessor sought advice from the Directorate regarding the payment of salary to the petitioners. That is when the superior authorities came to know of the wayward appointments which discovery has ended with the termination order.

When the matter initially came up on 05.10.2016, this Court passed the following order:

“Notice of motion returnable by 26.10.2016.

On the asking of Court, Mr. Harish Rathee, Senior DAG, Haryana, who is present in Court, accepts notice on behalf of respondent-State. Three copies of the paper-book be supplied in the office of Advocate General, Haryana and one copy be handed over to Mr. Rathee during the course of day.

The Director, Industrial Training and Vocational Education, Haryana, Chandigarh is directed to remain present in Court on the next date of hearing to show cause why he and other erring officers engaged the petitioners without following the necessary selection process, being the reason why the services of all the four petitioners as Instructors have been disengaged.

In the meantime, he would carry out an exercise to identify the erring officers who made the engagements paid from the public funds.

A copy of this order be given to Mr. Rathee under the signatures of Bench Secretary of this Court, to be forwarded to the Director for compliance.”

On the adjourned date i.e. 26.10.2016, the matter was taken up again and the following order was passed after hearing counsel:

“W/s of Mr. Anshaj Singh, Director, Deptt. Of Industrial Training, Haryana, Chandigarh filed in Court today, is taken on record. Copy supplied. According to reply,

even before the order was passed by this Court on 05.10.2016, the department has taken the action against the Principal engaging instructors on contractual basis at his own level without reference to the department. The Principal has been suspended and issued charge-sheet under Rule 7 of Haryana Civil Services (Punishment and Appeals) Rule, 1987.

The Director would no longer be required to appear in this case.

Arguing counsel for the petitioner is not available and short accommodation is prayed for.

On request, adjourned to 09.11.2016.

To be shown in the urgent list for final disposal.”

The Court is apprised that the erring Principal has been suspended from service and is facing departmental proceedings and hence the law will take its course. This Court express no opinion thereon so as not to prejudice any of the parties. However, in the circumstances, it is not possible to entertain the request of the petitioner for reinstatement of service or grant of relief of continued employment or even protection against replacement by other contractual employees. These are public posts which are to be filled in accordance with the constitutional scheme in Articles 14 & 16 of our Constitution. Any appointment de hors the rule is void and confers no status (*See Secretary, State of Karnataka Vs. Umadevi, (2006) 4 SCC 1*).

Consequently, no ground is made out for interference in exercise of writ jurisdiction. The petition is dismissed.

10.11.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*