

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

**C.W.P No. 212 of 2016
Date of decision : 13.06.2016**

Ravi

...Petitioner

versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Lalit K. Gupta, Advocate
for respondent No. 2

Mr. Puneet Gupta, Advocate
for respondent No. 3 to 5.

RITU BAHRI, J.

Petitioner-Ravi is seeking issuance of writ in the nature of certiorari quashing advertisement dated 10.08.2015 (P-6) and further prayer is for issuance of direction to the respondents to regularize the services of the petitioner, after completion of probation for a period of 2 year as per appointment letter dated 06.09.2012.

Pursuant to advertisement dated 09.04.2012 for the post of Peon and other posts, petitioner applied against the post of Peon and was selected in the office of District Legal Services Authority for a period of six months, vide appointment letter dated 06.09.2012. Thereafter, petitioner gave a representation dated 07.09.2014 for grant of increment to the petitioner after completion of probation period (P-5). However, post of peon was re-advertised by the office of legal service authority, Panipat on 22.07.2015 and

the last date of submission of the application was 10.08.2015 (P-6).

The grievance of the petitioner before this Court that once the petitioner is working on the post of Peon for the last about three years and there was a clause in his appointment letter that he will be on probation for a period of two years, which can be extended for another year, if his work and conduct is found satisfactory, the service of the petitioner is governed under the Haryana Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997. Further there was a condition in the appointment letter that petitioner has to be declared fit before entry in to Government service by the Civil Surgeon, Panipat, which the petitioner has produced before joining his service.

On notice, a written statement has been filed stating therein that pursuant to advertisement dated 12.07.2012, petitioner was selected for a period of six months on temporary basis, vide letter dated 06.09.2012 and in this letter there was a condition ***that if the work and conduct was not found satisfactory then the services of the employee could be terminated without assigning any reason.*** Petitioner joined on 07.09.2012 and his services were extended on 06 monthly basis from 08.03.2013 to 07.09.2013 etc (R-3/2). Further an advertisement was issued on 04.09.2014 (R-3/3) inviting applications up to 15.03.2014 for appointment against the post of Peon, for which the petitioner submitted his application (R-3/4) along with bank draft of Rs.100/-. These facts have been intentionally concealed by the petitioner. 24 candidates appeared in the interview and none was found suitable. Thereafter, petitioner never protested and continued to work on temporary basis.

Thereafter, an advertisement dated 24.07.2015 was published

inviting applications for the post of Peon. The last date of submission was 10.08.2015. Petitioner applied vide his application along with draft of Rs.100 dated 29.07.2015 (R-3/5). These facts have been intentionally concealed by the petitioner. Petitioner appeared in the interview on 15.12.2015 and apprehending he would be unsuccessful he filed the present writ petition.

Learned counsel for the petitioner has vehemently argued that as per appointment letter, the petitioner was on probation for a period of two years and once he had completed two years of service, the services of the petitioner has to be regularized.

The argument of the petitioner is liable to be rejected as the petitioner was appointed pursuant to letter dated 09.04.2012 wherein directions were issued to Haryana State Legal Services Authority to appoint the Peon for a period of six months. Even in the appointment letter of the petitioner, it has been written that the post is purely on temporary basis and for a period of six months. Condition No. 2 of the appointment letter that petitioner will be on probation for a period of two years, cannot be read in favour of the petitioner. A direction was given to fill the posts for a period of six month only. This fact is further clear as the petitioner was given extension time and again. Further the petitioner had participated in the selection process for the post of Peon and this fact has been concealed by him.

Further as per letter (R-3/6), it has been denied that the work and conduct of the petitioner is good and no adverse has been passed against him, as there have been instances of gross misconduct i.e remaining absent from duty without intimation and leaving station without express permission. The matter was also referred to the then learned District and Sessions Judge-cum Chirman, DLSA, Panipat vide letter dated 05.11.2014 but no action was

recommended.

The above facts are sufficient to return a finding that petitioner was working on purely temporary basis for a period of six months which has been extended time and again and keeping in view his work and condition, the writ petition is dismissed being devoid of any merit.

(RITU BAHRI)
JUDGE

13.06.2016
G Arora