

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 555 of 2016

Date of Decision : January 13, 2016

Dinesh Kumar ..... Petitioner  
vs.  
State of Haryana and others ..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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*To be referred to Reporters or not ?*

*Whether the judgment should be reported in the digest ?*

\* \* \*

Present : Mr. Madan Pal, Advocate  
for the petitioner.

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**DEEPAK SIBAL, J. :**

Through the present petition, the petitioner, who was working as a Clerk on contract basis, seeks a direction to the respondents to allow him to continue to discharge his duties till regular selections are made.

A few facts may be noticed.

Vide appointment letter dated 24.07.2013, the petitioner was appointed as a Clerk on contract basis, on DC rates for a period of six months or till the date a regular incumbent joins. His appointment, on the same terms and conditions, was extended from time to time and as per the

last extension granted to him, he was to continue till 04.02.2016. However, vide the impugned order dated 11.12.2015, respondent no. 4, who is a regular Clerk, was posted by way of transfer against the post being held by the petitioner on contractual basis. Through the present petition, the petitioner challenges the aforementioned order dated 11.12.2015 and further seeks to continue on the post, on which he was appointed on contract basis on DC rates.

I have heard counsel for the petitioner and perused the case file.

The prayer made by the petitioner cannot be accepted. A perusal of the terms of appointment of the petitioner makes it abundantly clear that the petitioner was appointed on contract basis on DC rates for a specified period or 'till the date a regular incumbent joins, whichever is earlier'. It is not disputed that respondent no. 4 is a Clerk appointed on regular basis by the Government of Haryana and has been posted against the post being held by the petitioner. Thus, as per the terms of his appointment, the petitioner has to give way to respondent no. 4. If the prayer made by the petitioner is to be allowed, then the petitioner, who is a contractual employee, appointed on DC rates, would have to be given preference over a regularly appointed Clerk, which cannot be done.

Postings of regular employees, as done in the case of respondent no. 4, is a purely administrative matter and best left to the

Authorities. If they have deemed it proper and for administrative reasons, to post a regularly selected employee against the post being held by the petitioner, then such action cannot be questioned by a person like the petitioner as his status of appointment does not permit that, especially in the absence of any mala fides.

The petitioner cannot be allowed to discharge his duties on a post, against which respondent no. 4 – a regularly appointed Clerk has been posted. The petitioner cannot be allowed to say that he would continue on the post being held by him and that respondent no. 4 – a regularly appointed Clerk be posted elsewhere. As the petitioner had been appointed in a particular College, he also cannot claim adjustment in another College on the posting of respondent no. 4 against the post being manned by him. As a contractual employee, appointed on DC rates, he has no right to make such a claim.

Counsel for the petitioner has cited several judgments of the Apex Court, as also this Court to buttress his submission that contractual employees cannot be replaced by other contractual employees, which are as follows :-

1. **Hargurpratap Singh vs. State of Punjab and others – 2007 (13) SCC 292**, decided on **07.11.2003**.
2. **Himani Joshi vs. State of Punjab and others – C. W. P. No. 25531 of 2015**, decided on **07.12.2015**.
3. **Dr. Barinder Kaur vs. Guru Nanak Dev University,**

**Amritsar and others – 2015 (3) S.C.T. 608**, decided on **09.07.2015**.

I have gone through the aforesaid cited judgments. **Hargurpratap Singh's** case (*supra*) and **Himani Joshi's** case (*supra*) would not apply to the facts of the case in hand as in the present case, the petitioner, who is a contractual employee, is not being replaced by another contractual employee but by a person, who is regularly appointed and for administrative reasons, has been posted on the post being held by the petitioner.

So far as the case of **Dr. Barinder Kaur** (*supra*) is concerned, the same would also have no application as the facts of the case in hand are completely distinguishable. In the present case, no additional charge has been given to respondent no. 4, as was done in **Dr. Barinder Kaur's** case (*supra*). Also after considering the import of the post in question i.e. Principal of a College in **Dr. Barinder Kaur's** case (*supra*), it was held as under :-

*“There is yet another aspect of the matter. Since 27.03.2014, respondent no. 3, who is substantively working as Principal in Shaheed Ram Singh Pathania Memorial Guru Nanak Dev University College, Niari, District Pathankot, has been asked to discharge duties as Principal of the respondent College on additional*

*charge basis. A Principal is like a Captain of a ship. He plays pivotal role in shaping the future of the students. The job of a Principal of a College requires whole time attention. The above arrangement would certainly dilute the attention that he would give to either of the colleges. It is undesirable that one person should be allowed to work as a Principal of two Colleges for long periods, which is about 1½ years in the case in hand.”*

The facts of the case in hand are completely distinguishable.

In view of the above, finding no merit in the present writ petition, the same is hereby ordered to be dismissed.

No costs.

**( DEEPAK SIBAL )**  
**JUDGE**

**January 13, 2016**

*monika*