

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21312 of 2013
Date of Decision:-13.02.2017.

Gulshan Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Ms. Geeta Singhwal, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

- 1.) In the instant writ petition, petitioner has questioned validity of the order dated 9.7.2013 (Annexure P-4) assigning the duties of Chowkidar.
- 2.) Learned counsel for the petitioner submitted that petitioner was appointed as a Peon on 5.12.1997. The post of Peon and Chowkidar are entirely different so also nature of duties and responsibilities. In the absence of any statutory provision shifting a Peon to Chowkidar and Chowkidar to Peon order dated 9.7.2013 (Annexure P-4) is not tenable.
- 3.) On the other hand, learned counsel for the respondents submitted that it was only a stop-gap arrangement made for want of Chowkidars. He also relied on a communication vide Annexure R-1 by which all the Secretaries and Heads of Departments have been directed to make an arrangement to provide work of a Chowkidar to the Peon.

Therefore, there is no infirmity in Annexure P-4.

4.) Heard learned counsel for the parties.

5.) In the absence of statutory provision for inter-change transfer and posting of Peon and Chowkidar, executive order cannot prevail. Thus, Annexure P-4 has been issued in the absence of statutory rule for the reasons that post of Peon and Chowkidar and entirely different cadres including the duties and responsibilities. Therefore, Annexure P-4 is liable to be set aside. Accordingly, Annexure P-4 dated 9.7.2013 is set aside.

6.) Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

February 13, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.