

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

Date of decision: 27.04.2017

CWP No.18260 of 2015 (O&M)

Manjushree Salathia

.... Petitioner

VS

Union of India and ors.

.... Respondents

CWP No.7202 of 2016 (O&M)

Dr. Hameet Trehan

.... Petitioner

VS

Union of India and ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Pradeep Sharma, Advocate
for the petitioner.

Mr. Vivek Singla, Advocate with
Mr. Udit Garg, Advocate
for the respondents.

RAJIV NARAIN RAINA, J. (ORAL)

This order will dispose of above-mentioned writ petitions as common questions of law and fact is involved in them which can be conveniently dealt with by a common order. Facts are taken from CWP No.18260 of 2015.

The petitioner is an Ex-serviceman. She served the Army in short service commission for five years as a Dentist. Thereafter she was offered the post of Dental Officer on contract basis at ECHS, Jalandhar in pursuance to the advertisement issued inviting applications from

Ex Serviceman/qualified Civil persons with preference given to the Ex serviceman. She was appointed as Dentist on 01.08.2014 from ex serviceman quota. The contract was of 11 months with condition of renewal on satisfactory work and performance.

The petitioner is present in Court and I have heard her on the complaint made by her superior of what is meant by lack of 'soft skills' an expression alleged by Col Soni, who was not even her immediate boss. She is also at a loss to explain, just as I am unable to understand what was really meant. I deem it appropriate not to summon Col Soni since I propose to dispose of the case and calling him would only delay the proceeding. There is enough material on file for deciding the case finally.

In the chain of command, the immediate superior was OIC. The hierarchy of officers above the rank of the petitioner in ECHS is IO/Director, ECHS, FTO (Col Soni) and final authority is Station Commandant of the rank of Brigadier.

Mr. Vivek Singla for the Union has produced the original assessment sheet of the petitioner in Court. The same has been perused with his assistance. Both the first and the last authority have found the work of the petitioner satisfactory but it is the FTO/Technical Officer/Col. Soni, who on each of the parameters of assessment of the officer in Column No.11 and 12 of the assessment sheet Re: personal and professional qualities has recorded in his handwriting the remarks 'unsatisfactory' in each of the enumerations/yardsticks on the assessment sheet. Which means, that Brigadier R.K. Mahna, Station Commandant did not agree with the FTO's

observations/grading.

But despite the fact that the Director, ECHS and the Brigadier recommended grant of extension in service [obviously after reading the remarks of Col. Soni against the petitioner, which read: "*Dr. Salathia despite being a post graduate dental professional, have absolute lack of soft skills and professional knowledge to handle the clientele*"] the higher ups have denied extension in service in ECHS overruling the recommendation without due reflection or more than likely on misinformation supplied by those interested to show the petitioner the exit door.

Unfortunately, the recommendations of the Brigadier R.K.Mahna, Station Commandant were over-ruled by the higher authority being the GOC, 91, Sub Area which deprives the petitioner of an extension which should have come in the normal course in view of the scheme dated 22.09.2003 as interpreted by this Court in LPA No.1691 of 2015 decided on 19.12.2016 in the case of ***Union of India vs. Paramjit Kaur***. The Division Bench of this Court had over-ruled the contention of the Union of India that the writ petitioners could not seek renewal of their contractual services as a matter of right, is unsustainable in view of specific Clause 12 incorporated in the Scheme for renewal of contract enshrined in the original agreement itself signed by the parties to the dispute, which ensured that the contractual employees concerned in ECHS are entitled to automatic renewal of their contracts till they attain the maximum permissible age limit except in the event of certain specified eventualities covered in Clause 11 of the agreement of the contract of the employee entered in pursuance of the

scheme with the employee agreeing to abide at the time of initial appointment. When the disability of work and conduct not being satisfactory does not exist or has come into play on a fair assessment or performance and conduct then the renewal is automatic. Any departure would be in contempt of the Division Bench of this Court in *Parminder Kaur's* case (supra).

I have heard learned counsel for the parties at considerable length of over an hour and perused the record with their assistance on file and produced by the respondents.

On a totality of facts and circumstances I have no doubt that the petitioner has not been treated fairly and honestly by abuse of power to assess objectively by an indeterminate, casual and destructive use of the expression 'lack of soft skills' without any common usage in ACRs has derailed the case of the petitioner for extension in service. The first and third authorities have reported and reviewed the work of the petitioner as satisfactory. This nullifies the grading of Col Soni. Brig. R.K.Mahna agreed with the report above Col Soni but it is not known why at the higher level his opinion was not accepted by those who had no direct contact with the work and conduct of the petitioner as sufficient to discontinue with her employment in terms of the scheme. The respondents have not produced any tangible material on the basis of which the impugned decision can be justified and which by reasonable standards might disqualify the petitioner from continuance in ECHS employment.

The petitioner present in Court submits that every day in ECHS

arise where retired army persons irritate the doctors, which is not unknown when egos and rank clash pushing door to jump the queue. Nevertheless, misconduct or poor performance as a trained Dentist who is ex-Army has not been proved against the petitioner except in Col. Soni's assessment dubbing the petitioner suffering from lack of 'soft skills'. The petitioner is also at a loss to explain what is meant by soft skills in dictionary of Col. Soni. So also am I in the dark. I wonder how the words 'soft skills' in ECHS can be put down on affidavit and supported by record, if one was called for filing by Court. If 'soft skills' mean personal attributes that enable someone to interact effectively and harmoniously with other people, then can it be said that work and conduct is not satisfactory. Or is it that if a Colonel in the Army is full of soft skills he would have risen to be a General. This is a matter of introspection and not part of the apparatus in the Scheme and the agreement and right to continue declared in *Parminder Kaur's* case (supra).

The non-renewal of contract is declared illegal. Irrelevant considerations have played their part at the middle and highest level.

I am sure that the GOC was not advised correctly on facts obtaining in ECHS, Jalandhar, otherwise the Officer may have acted differently and litigation avoided.

Accordingly, the petition is allowed. All the impugned decisions on record are set aside with consequential benefits.

The adverse personal remarks recorded by Col Soni are declared arbitrary and not binding on the petitioner. The respondents are directed to renew the contract immediately from the date of receipt of

certified copy of this order, either from the Court or from the petitioner, whichever is earlier. She will be given posting at ECHS, Jalandhar and made to rejoin service which is facilitated by the interim order issued in the instant case directing one post to be kept vacant.

Necessary formalities, if any, be completed between the authorities and the petitioner after joining.

CWP No.7202 of 2016 (O&M)

Same order as above, to be read mutatis mutandis. Allowed in the same terms.

(RAJIV NARAIN RAINA)
JUDGE

27.04.2017

sonia

<i>1. Whether speaking/non-speaking?</i>	<i>Yes</i>
<i>2. Whether reportable/non-reportable?</i>	<i>No</i>