

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

CWP No. 17868 of 2016

Date of Decision:-23.08.2018

Smt. Anju

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Amardeep Hooda, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

RITU BAHRI J.(Oral)

The petitioner is seeking direction to the respondents to appoint him on the post of Peon keeping in view that she has been working on the post of Peon on contract basis in terms of earlier appointment letter dated 17.6.2011 (Annexure P-1). Thereafter she continue to serve till 31.12.2014 and thereafter her services have been disengaged.

The respondents had issued an advertisement on 09.8.2016 (Annexure P-5) to appoint peons on contract basis. While issuing notice of motion on 31.8.2016 the appointment pursuant to Public Notice (Annexure P-5) was remain subject to outcome of the instant petition.

As per reply filed, pursuant to Public Notice (Annexure P-5)

petitioner did not move any application for applying the said post on contract basis through outsourcing policy in the office of Zila Parishad, Sonapat. There are two sanction posts of peons and one of clerk, which are to be filled through outsourcing policy dated 6.4.2015 of the State of Haryana. 63 candidates appeared for the post of Peon. 13 candidates applied through employment office. A Committee was constituted and after taking their interview, the result was not declared. With regard to the above period of petitioner, it has been clarified that she had worked for 103 days after 21.6.2011 upto 20.12.2012 and was absent for 54 working days and hence her case for regularization as per the terms and conditions of the policy dated 20.6.2014 (Annexure R-1) and 14.8.2014 (Annexure R-2), annexed with the reply, was not made out. The petitioner has placed on record advertisement (Annexure P-6) whereby a public notice has again been issued for appointment for the post of Peon as per DC rates on permanent basis or by deputation again in 2017 and 5.12.2017 was the last date.

The petitioner has been working since 2011 till 31.12.2014 on contract basis and as per the judgment of the Supreme Court **Hargurpratap Singh vs. State of Punjab and others (2007) 13 SCC 292** as per which the contractual employee cannot be replaced by another set of contractual employee who has gained experience which will be more beneficial and useful to the institute. Thereafter this judgment has been followed by this Court in a number of cases.

This petition is being allowed. The respondents are directed to

reinstate the petitioner on the post of Peon and further direction that she can only be replaced by a regular selected candidate.

August 23, 2018
Vijay Asija

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No