

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

CWP No. 24997 of 2016

Date of Decision:-23.08.2018

Anup Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Anil Shukla, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G. Haryana.

Mr. Ravinder Singh Saroha, Advocate
for respondent No.5.

RITU BAHRI J.(Oral)

The petitioner in the present case seeking quashing of appointment of respondent No.4 as Clerk on contract basis with a further direction to allow the petitioner to work on contract basis on the post of Clerk till regular selected candidates are appointed.

The petitioner has been appointed as a Clerk in the office of Women and Child Development Department on 27.5.2013 (Annexure P-2). The selection of petitioner was through a Selection Committee and as per medical fitness certificate (Annexure P-1). The petitioner was relieved on 23.11.2016 and thereafter respondent No.4 was appointed on DC rates on

contract basis employed through contract respondent No.5. There is only one post of Clerk in the office of respondent No.3-The District Programme Officer, Women & Child Development Department, Palwal-II. The stand taken by the respondent-State in the written statement is that an administrative decision was taken on 30.9.2016 by the Director, Women & Child Department, Haryana, Panchkula (respondent No.2) to engage employees of unskilled, semi skilled and skilled category for the office of District Programme Officer/Women & Child Development Officer/Observation Home, Faridabad, Hisar, Karnal and Ambala through service provider namely Nischay India, R.O. ITI Chowk, Bye Pass Road, Sonapat, on DC rates as per the outsourcing policy of the State of Haryana No.16/7/2015-1G.S.II dated 6.4.2015 and after taking this decision, respondent No.4 has been appointed through the service provider-respondent No.5. Thereafter, pursuant to the order passed on 27.4.2017 an additional affidavit has been filed by respondent No.3-District Programme Officer, Palwal clarifying therein that petitioner Anup Singh was appointed on the post of Clerk vide appointment letter No.6511 of 27.5.2013. Even the petitioner has been appointed through outsourcing policy, which provided that engagement of persons made on contract basis where regular posts exists. The aforementioned application is as per the outsourcing policy.

Once the State has clarified that even the appointment of the petitioner was through outsourcing policy, the services of the petitioner could not be replaced by another set of contractual employee and this aspect

has already been considered by this Court in a number of judgments.

This petition is being allowed and the respondents are directed to re-engage the petitioner on the post of Clerk on contract basis keeping in view that he has experience since 2013 till 23.11.2016. He can be replaced by a regularly selected candidate.

August 23, 2018
Vijay Asija

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No