

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.6751 of 2015
Reserved on :19.12.2017
Date of decision:10.01.2018

Ram Mehar

....Petitioner

Versus

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.R.S.Malik, Advocate, for the petitioner.

Mr.Harish Rathee, Sr.DAG, Haryana.

G.S. SANDHAWALIA, J.

This judgment shall dispose of CWP-6751 & 7845-2015, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP-6751-2015 titled *Ram Mehar Vs. State of Haryana & another*.

Petitioner challenges the advertisement No.12 of 2014 dated 30.12.2014 (Annexure P-3) whereby the respondents advertised the post of Assistant on contract basis despite the fact that the petitioner was also working, as such, in the same status. Therefore, direction is sought not to replace the petitioner with another person by way of similar arrangement, in view of the judgment of the Apex Court in **Hargurpratap Singh Vs. State of Punjab & others 2007 (13) SCC 292**.

From the record, it transpires that the petitioner is a retired civilian employee with the Government of India, Ministry of Defence, Military Engineering Service, having served for 41 years and 8 months in the Ministry of Defence. In pursuance of the selection process and on the recommendation of the Selection Committee, he was appointed as Assistant

with the respondent-Medical College on contract basis at DC rates, for a period of 6 months. He entered into an agreement dated 12.09.2012. whereby the terms of the contract *inter se* was agreed between the parties that it was temporary arrangement and could be terminated at any time, without assigning any reasons.

After a period of one year, he was relieved vide letter dated 06.09.2013 (Annexure R-2) w.e.f. 11.09.2013, after completion of one year of contract period, which had been extended for 6 months on an earlier occasion. Thereafter, he was again appointed on 01.10.2013 (Annexure R-3), on the same terms and conditions and another agreement dated 03.10.2013 was entered into with the respondents. His term was extended on 03.04.2014 and thereafter, again upto 03.04.2015, as per letter dated 05.06.2015 (Annexure R-4). Thereafter, on account of the impugned advertisement dated 30.12.2014, whereby posts were advertised on contract basis/DC rates, he approached this Court and was granted interim protection on 09.04.2015.

It is not disputed that prior to that itself, on 16.01.2015 (Annexure R-6), the conducting of interview was withdrawn by the Director General, Medical Education & Research and thus, the petitioner continued on contractual basis, thereafter.

Counsel for the petitioner has, accordingly, argued that the petitioner is entitled to continue till regular appointments are made, keeping in view of the judgment of **Hargurpartap Singh** (supra).

The said fact that no regular appointment, as such, is being

made and have not been made, was not denied by the respondents and therefore, keeping in view the settled principles that a contractual employee cannot be replaced by another contractual employee, the present writ petitions are disposed of, with a direction that the petitioners shall be continued in service till regular selected employees are appointed against the post that they are holding.

In case the respondents do not require the services of the petitioners and if they abolish the post, the respondents can dispense with the services of the petitioners, as per the terms of the contract. Similarly, in case the petitioners are not keeping upto the mark and their work and conduct not being satisfactory, it would always be open to the respondents to dispense with their services.

10.01.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*