

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

**Civil Writ Petition No. 28201 of 2017 (O&M)
Date of Decision: 18.04.2018**

Badal Soni

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ravi Kamal Gupta, Advocate
for the petitioner.

Mr. Manoj Bajaj, Additional Advocate General, Punjab
for respondent No. 1/State.

Mr. Vikas Chatrath, Advocate
for respondent Nos. 2 & 3/Punjab Roads and Bridges Development Board.

JASWANT SINGH, J.

1. Instant writ petition under Article 226 of the Constitution of India is filed seeking direction to respondents not to dispense with services of the petitioner and allow him to continue.

2. The Punjab Roads and Bridges Development Board (for short 'Board') was constituted in terms of Section 3 of Punjab Roads and Bridges Development Board Act, 1998 (for short 'Act'). As per Section 5 of the said Act, Board may with the approval of the government create such posts and appoint such Officers and other employees as it may consider necessary for the efficient discharge of its functions. As per Section 5(2) of the Act, the conditions of service of Officers and other employees appointed by Board shall be regulated by the Regulations made by Board. The petitioner was appointed as Project Manager (Environment) on contract basis by Board and for said purpose, an agreement dated 16.04.2018 was executed between

petitioner and Board. The appointment letter dated 26.03.2012 was issued wherein it was specifically mentioned that appointment is on contractual basis, for a period of one year which may be extended. As per terms and conditions of the agreement, the petitioner could be removed from services at any time on one calendar month's notice. The tenure of petitioner was extended from time to time and as per agreement dated 22.11.2017, the tenure was extended up to 31.02.2017 or till his services are required whichever is earlier. The petitioner was party to said agreement and it is not a case of the petitioner that there was unilateral agreement whereas petitioner consciously executed said agreement which was extended from time to time.

3. Learned counsel for the petitioner, *inter alia*, contended that petitioner is having additional charge of Project Manager (Road Safety) since May' 2012 and he has earned degree of Bachelor of Engineering and Post Graduate Degree in Environment from reputed University. State Government has brought Punjab Ad hoc, Contractual, Daily Wage, Temporary, Work Charged and Out Sourced Employees Welfare Act, 2016 and petitioner being contractual employee is protected by said Act. The Punjab Government vide instructions dated 28.08.2017 has directed departments in the State of Punjab that services of such employees, who are already working on contract or through out-sourcing Agency and Administrative Department need them, be extended till 31.03.2018 or till the decision of Government or court with regard to Punjab Ad hoc, Contractual, Daily Wage, Temporary, Work Charged and Out Sourced Employees Welfare Act, 2016. Mr. P.N. Roy as well Mr. Sandeep Sharma were appointed on contractual basis like petitioner but their services have been

extended beyond 31.12.2017 and non extension of contract of the petitioner amounts to violation of Article 14 and 16 of Constitution of India.

4. Per contra, counsel for the respondent has contended that petitioner was appointed on contractual basis and agreement was extended from time to time. In the agreement, it was categorically made clear that extension is for a particular period and in the last agreement also it was mentioned that tenure is extended up to 31.12.2017. The petitioner was appointed for a particular project and said project has come to an end in July' 2017. The accounts of Board stand closed in December' 2017 and project stands completed so there is no question of extension of tenure of the petitioner. The petitioner was very much aware at the time of appointment that he has been appointed on contractual basis and his appointment was not made as per normal procedure adopted for the appointment of employees of Government. Therefore, he has no right to claim extension on the basis of afore-stated Act of 2016 and instructions of the Government.

5. After having heard arguments of both the counsels and scrutinized record of the case, this Court finds that present petition is bereft of merits and deserves to be dismissed. The conceded position as emerge from arguments and record of the case is that petitioner was appointed through agreement dated 16.04.2012 means his appointment is governed by said agreement and not Rules and Regulations governing appointment of government employees. He was not appointed after following normal procedure adopted to appoint government employees. He was issued an appointment letter which was followed by agreement and in both the documents it was specifically mentioned that he will get lump sum

compensation and appointment is on contractual basis for a period of one year which may be extended. The petitioner at the time of every extension executed agreement which means he was conscious of the fact that his appointment is contractual which can be terminated in terms of agreement. The project stands completed so services of petitioner are not required for the project.

6. The petitioner was appointed for a particular project. He was appointed on contract basis and agreement was executed which governed tenure, package and all other terms and conditions of appointment. The petitioner was appointed in terms of an agreement and without following procedure adopted to appoint government employees so petitioner is bound by agreement and this Court cannot ask respondent to extend the agreement especially when stand of respondent is that petitioner was appointed for a particular project which stands completed. Time and again Hon'ble Supreme Court has deprecated practice of appointment of employees on contractual basis because it amounts to back door entry. It is not a case of the petitioner that he has been substituted by some other employee or work is still incomplete and another employee is going to be appointed. The petitioner cannot claim parity in view of Article 14 and 16 of the Constitution with other employees whose services may be required by the respondent. This Court cannot go into the question that whether work is complete or not and whether services of the petitioner are required or not. Had petitioner pleaded that he is going to be substituted by another employee, this Court might have gone into the question of legality of appointment of another person but in the absence of appointment of another person, this Court can not ask the respondent to avail services of the

petitioner because it may increase unnecessary burden over the Board-Respondent.

In view of aforesaid findings, the present petition deserves to be dismissed and accordingly '**dismissed**'. It is made clear that petitioner would be entitled to salary and all other benefits till the date he had worked and respondent shall clear all outstanding dues of petitioner within a period of one month from the date of receipt of certified copy of this order.

Since the main case has been decided/dismissed, therefore, no orders are required to be passed in the pending miscellaneous application(s), if any, and the same stand(s) disposed of.

April 18, 2018
'dk kamra'

(JASWANT SINGH)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>