

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

CWP-25568-2012 (O&M)
Date of decision : 23.09.2019

Anita Rani

...Petitioner

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. B.S. Sidhu, Advocate,
for the petitioner(s).

Ms. Anju Arora, Addl.A.G., Punjab.

Mr. Keshav Gupta, Advocate,
for respondent No.4.

None for respondent No.5.

Name of respondent No.6 deleted
vide order dated 02.09.2016.

Respondent No.7 *ex parte*
vide order dated 28.03.2019.

JITENDRA CHAUHAN, J.

Challenge in the instant petition is to order dated 30.11.2012 (Annexure P-7), passed by respondent No.5, whereby, the services of the petitioner were terminated.

It is contended that the petitioner was initially appointed as Computer Operator on D.C. rates vide order dated 01.02.2012 (Annexure P-3). Thereafter, keeping in view the requirement of Clerk-cum-Data Entry Operator, the Chairman , Panchayat Samiti, Bathinda, vide resolution dated

29.03.2012 (Annexure P-4) appointed the petitioner as such on D.C. rates. Such a resolution was approved by the Executive Officer vide office order dated 04.04.2012 (Annexure P-5). As the work and conduct of the petitioner was to the satisfaction of the respondents, respondent No.5 had written a letter dated 27.09.2012 (Annexure P-6), to respondent No.2 to regularize the services of the petitioner on the post of Computer-Clerk. The petitioner continuously had been working on the said post till 05.12.2012, when the petitioner was assigned the duty of preparing list of the wards of Panchayat Election. However, on 30.11.2012, the impugned order (Annexure P-7) was issued by the Superintendent, Panchayat Samiti, on behalf of Block Development and Panchayat Officer, terminating the services of the petitioner on account of lack of work load.

It is contended that impugned order (Annexure P-7) has been passed with mala fide intentions inasmuch as such order has been ante dated and thus was given Spl.No.1 and not the routine dispatch number. He refers to the relevant extract from the attendance register (Annexure P-8), wherefrom, it would be apparent that the petitioner discharged her duties till 05.12.2012, which shows that there was not dearth of workload. The whole exercise has been carried out at the asking of respondent No.6 in order to accommodate respondent No.7. No show-cause notice or opportunity of hearing has been provided to the petitioner before her termination. Cites ***Nisha Devi Vs. State of H.P. (SC), 2014 (3) Scale 132.***

On the other hand, learned State counsel has vehemently argued that the engagement of the petitioner was purely on temporary basis which could be terminated at any time. The termination order has been

issued on account of the fact that the services of the petitioner were no more required.

Heard.

Before proceeding further, it would be apposite to refer to the appointment letter dated 04.04.2012 (Annexure P-5), issued to the petitioner, relevant portion whereof, reads thus:-

“That vide resolution No.2 dated 29.3.2012 of the Panchayat Samiti, Bathinda consent has been given in the appointment of Smt. Anita Rani D/o Sh. Nand Kishore R/o Bhagta Bhaike District Bathinda as Clerk on daily wage basis.

- 1. This appointment will be on temporary basis and services can be terminated any time if the work and conduct is not satisfactory.*
- 2. You will not be given any T.A./D.A. for joining the Panchayat Samiti.”*

From the above, it is abundantly clear that the engagement of the petitioner was on daily wage basis (temporary) and her services were liable to be terminated at any stage. Her appointment as Clerk on temporary basis was without following proper procedure i.e. neither the advertisement was issued nor the applications were invited for the said post. The petitioner had worked on the post in question for about eight months only. Her services were terminated on 30.11.2012 on the ground that there was no work. The impugned action on the part of the respondents cannot be said to be illegal or perverse inasmuch as the petitioner was appointed only on DC rates, especially making it clear in the appointment letter that her services

could be terminated at any time. There was no pre-condition either for the employer or the employee in the appointment order for issuance of a prior notice before terminating the services. The case law cited by the petitioner is distinguishable on facts.

In view of the above discussion, this Court feels that there is no merit in the present petition and accordingly, the same is dismissed.

23.09.2019
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No