

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-4528-2017

Date of Decision: 13.11.2019

Kamlesh Rani

.. Petitioner

vs.

Chairman School Management Committee and ors.

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. J.P.Janghu, Advocate
for the petitioner.Mr. O.S.Batalvi, Advocate
for the respondents.

ARUN MONGA, J.(ORAL)

Inter alia issuance of a writ in the nature of *certiorari* has been sought to quash termination letter dated 27.01.2017 (Annexure P-2) vide which the services of the petitioner as Visiting Counsellor, hired on contractual basis for 14 sessions per month, at a consolidated honorarium of Rs.9,850/-, were dispensed with.

2. I have heard the rival contentions of the learned counsels and have perused the pleadings alongwith the relevant record appended thereto.

3. Grievance of the petitioner emanates out of non-implementation of Education Code of 2014 much after the same was introduced as she continued to work on contractual basis for fix honorarium upto 27.01.2017.

4. Learned counsel for the petitioner contends that the fact that said Code was not implemented gives a vested right to the petitioner to continue on honorarium in perpetuity. I am not in agreement with the insipid argument of the learned counsel for the petitioner, particularly, in view of the qualification prescribed qua the post of Health Wellness Teacher wherein services to be rendered are a-kin to the one rendered by Visiting Counselor i.e. petitioner.

5. Confronted with the situation, learned counsel for the petitioner

contends that even as per the prescribed qualification of Health Wellness Teacher which is the re-designation of the same post i.e. Visiting Counselor, the petitioner is meritorious enough since she holds a Ph.D. in Psychology.

6. There is nothing on record to show that the petitioner full-fills the qualifications as per the Education Code (Annexure P-4). However, assuming the contention of learned counsel for the petitioner that she possesses the requisite qualification, no explanation, let alone any plausible one, has been rendered as to why the petitioner did not apply for the post of Health Wellness Teacher when the applications were invited vide circular dated 02/2015 (Annexure R-5) and, thereafter, once again on 05/2016 (Annexure R-6).

7. The petitioner, at the relevant time, preferred to continue on honorarium basis and herself forfeited her right to seek the regular appointment having not applied on the post and is, therefore, non suited to challenge her termination on that short ground alone.

8. The petition being devoid of merit is, accordingly, dismissed.

9. I may hasten to add here that learned counsel for the respondents have raised the objection of maintainability of writ petition qua respondent(s)-Air Force School being not a juristic person as envisaged under Article 12 of Constitution of India, as the same is managed by the Society registered under the Society Act 1860 i.e. Indian Air Force Educational and Cultural Society. The said question is left open to be decided in appropriate proceedings as I have already observed my opinion on merits of the case and the writ petition has been dismissed in above terms.

13.11.2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No