

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-36029 of 2019

Date of decision: 20.12.2019

Sandeep Kumar

.... Petitioner

versus

State of Haryana and others

... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Anu Chatrath, Senior Advocate
with Mr. Manwatan Pal Singh, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana with
Mr. Prabhjot Singh, Director, Skill Development and Industrial
Training and Mr. H.K. Madan, Assistant Director, Skill
Development and Industrial Training, Haryana.

HARSIMRAN SINGH SETHI, J.

In the present writ petition, the challenge is to order dated 04.12.2019 (Annexure P/9), by which the services of the petitioner has been terminated as well as to the order dated 05.12.2019 (Annexure P/10) by which the petitioner has been relieved from his service.

Learned Senior counsel for the petitioner argues that the service of the petitioner has been terminated on the ground that SLP, which was filed by the petitioner before the Hon'ble Supreme Court of India against the order passed by the Division Bench of this Court dated 19.01.2014, has been dismissed. Learned Senior counsel for the petitioner argues that in those proceedings, claim of the petitioner was for his permanent adjustment in the department and this Court found that the petitioner is not entitled for the said relief, which decision has been upheld upto the Hon'ble Supreme Court of India. Learned Senior counsel for the petitioner further argues that the claim of the petitioner in this writ petition is only to allow him to continue in service

till the regular selected candidate is appointed against the post of Office Secretaryship (Hindi) Instructor at Government ITI, Sirsa keeping in view the fact that session was already in operation and students were already enrolled in the subject being taught by the petitioner and there is no one qualified for teaching those students, which will hamper their studies.

Though, an employee does not have any right to claim that he/she should be continued in service till regular incumbent joins until and unless he/she is being replaced by another set of employees on the same terms and conditions. In the present case, the order Annexure P/5, by which the petitioner has been relieved from the service by the Government Industrial Training Institute, Sirsa, makes it clear that the charge of the post held by the petitioner has been handed over to Smt Neelam Rani, who is an English Instructor. This shows that there is no one qualified, who can perform duties of the post of Office Secretaryship (Hindi) Instructor at Government ITI, Sirsa against which the petitioner was performing the duties.

Under these circumstances, Director Skill Development and Industrial Training, who is present in the Court, is asked whether in the facts and circumstances of this case, so as to safeguard the interest of the students so that they do not suffer, can petitioner be granted a concession to continue in service till the regular selected candidate joins against the post of OSS (Hindi) at Government ITI, Sirsa.

Learned State counsel upon instructions from Mr. Prabhjot Singh, Director, Skill Development and Industrial Training and Mr. H.K. Madan, Assistant Director, Skill Development and Industrial Training, Haryana, who are present in the Court states that the post on which the petitioner is discharging the duties, has already been advertised and the same is likely to be

filled up by regular incumbent within a period of two months or so. Learned counsel for the State concedes that it is a matter of fact, which is clear from Annexure P/10 that the charge of the post of OSS Instructor (Hindi), against which petitioner was working has been given to an employee, who is working as English Instructor. Learned counsel for the State, upon instructions from officials present in the Court today states that in the facts and circumstances of this case, and keeping in view the interest of the students, who are already enrolled at ITI, Sirsa, who were being taught by the petitioner, as an exception, the petitioner will be allowed to continue to discharge his duties of the post of OSS Instructor (Hindi) at ITI Sirsa till the regular selected candidate joins on the said post. Learned State counsel states that said concession, which is being granted to the petitioner be not treated as a precedent but should be limited to the present case as the same is being extended to the petitioner so as to safeguard the interest of the students.

Keeping in view the above, as the petitioner will be allowed to continue as OSS Instructor (Hindi) at Government ITI Sirsa till regularly selected candidate joins on the said post, learned Senior counsel appearing on behalf of the petitioner states that no grievance of the petitioner survives and petition has been rendered infructuous. It is made clear that concession extended by the respondents to the petitioner will not be treated as precedent in any manner as the said concession has been allowed to the petitioner in the facts and circumstances of the present case. Further, it is made clear that immediate upon joining of regular OSS Instructor (Hindi), the respondents will be at liberty to relieve the petitioner from service and no grievance will be raised by the petitioner at that time.

As claim of the petitioner for allowing him to continue in service till

regularly selected candidate is appointed, has been accepted by the respondents by way of concession in the facts and circumstances of the present case, the present writ petition has been rendered infructuous and is being disposed of as such.

(HARSIMRAN SINGH SETHI)

20.12.2019

JUDGE

- aarti*1. Whether speaking/non-speaking?
2. Whether reportable?

Yes/No
Yes/No