

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

CWP-12074-2020 (O&M)

Date of decision : 25.08.2020

Vikas Sharma

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Amit Jhanji, Advocate for the petitioner.

ANIL KSHETARPAL, J.

The writ petitioner by filing the present Civil Writ Petition under Article 226/227 of the Constitution of India, has assailed the correctness of the orders dated 10.08.2020 and 11.08.2020. The petitioner has filed the present writ petition with following substantive prayers:-

“i) Issue a writ in the nature of certiorari for setting aside the letter dated 11.08.2020 (Annexure P/16) whereby petitioner has been immediately relieved from the post of Junior Engineer (on contract), without giving any show cause notice and also an opportunity of hearing being illegal, arbitrary and against the principle of natural justice.

ii) Issue a writ in the nature of certiorari for setting aside the order dated 10.08.2020 (Annexure P/14) passed by respondent No.2 whereby private respondent No.4 has been posted to the place of petitioner and also setting

aside the joining report dated 11.08.2020 (Annexure P/15) whereby respondent No.4 submitted the joining report to the post of Junior Engineer, resultantly petitioner has been relieved from the post of Junior Engineer, being illegal, arbitrary and against the provisions of law.

iii) It is also prayed that during the pendency of the present writ petition, the operations of the impugned order dated 10.08.2020 (Annexure P/14) and 11.08.2020 (Annexure P/15 & P/16) may kindly be stayed in the interest of justice.”

It is undisputed that the petitioner was engaged as a Junior Engineer by Municipal Council, Narnaul, on contractual basis under Part-II of The Policy for Engaging/Outsourcing of Services/Activities, on 10.06.2016. It is the case of the petitioner that there were four posts of Junior Engineer in The Municipal Council, Narnaul. In the year 2016, only one post was occupied whereas three posts were vacant. Pursuant to an advertisement, applications were invited for filling them up on contractual basis for a period of one year. In the advertisement itself, it was notified that the services of such contractual employees engaged as Junior Engineers will be liable to be terminated after regular recruitment on these posts has been made. The petitioner on account of various extensions granted, has continued to work on the post. In between, he was also assigned the job of Building Inspector in Municipal Council, Ateli Mandi.

The term of the petitioner was extended upto 31.12.2020.

However, it may be noted here that in the appointment letter, it was

specifically stipulated that the petitioner can be relieved when the regular recruitment for the post of Junior Engineer has been made. It is also undisputed that two Junior Engineers came to be appointed by way of direct recruitment. Whereas on 11.08.2020, respondent No.4, who was under suspension, was reinstated and posted at Municipal Council, Narnaul. Respondent No.4 joined on 11.08.2020, resulting in relieving the petitioner from the service on the same day.

This Court has heard learned counsel for the petitioner at length and with his able assistance gone through the paper book.

Learned counsel for the petitioner has submitted that no doubt respondent No.4-Anoop Singh, has been permitted to join, however, as per the terms of appointment, it is only on direct recruitment that the writ petitioner could be relieved. He, further submitted that respondent No.4, has been sent on deputation and therefore, the services of the petitioner could not be dispensed with. He further contended that in the Education Department, the Guest Teachers engaged on contractual basis and later found surplus, were adjusted at another place in accordance with the adjustment policy issued by the Department. He further contended that the Junior Engineers working on contractual basis in the department of PWD, Irrigation and Water Resources, were similarly adjusted against vacancies at various other places. In the end, learned counsel has relied upon an interim order dated 14.07.2020, passed in CWP-8984-2020, titled as Sandeep and others Vs. State of Haryana and others.

This Court has analyzed the arguments of learned counsel for the petitioner carefully and has come to the conclusion that there is no scope for interference in the present case. It is apparent that the petitioner was appointed on contractual basis and his services were specifically stipulated to be terminated after the regular recruitment on these posts. It is now undisputed that all the four posts are occupied by regular incumbents. Now the question is whether Anoop Singh-respondent No.4, who was working as Junior Engineer in Municipal Council, Mandi Dabwali, on his reinstatement pending enquiry, has correctly been posted in Municipal Council, Narnaul or not. Learned counsel failed to draw the attention of the Court to any restrictions or prohibition on the same. It may be noted here that Anoop Singh-respondent No.4, has not been posted as Junior Engineer in Municipal Council, Narnaul on deputation.

As regards reliance of learned counsel for the petitioner on the adjustment policy adopted in the Education Department and adjustment of Junior Engineers in PWD, Irrigation and Water Resources Department, it may be noted that the petitioner cannot invoke Article 16 of the Constitution of India on the ground that it is discriminatory. Those contractual employees fall in a totally different category.

As regards the reliance placed upon by the learned counsel for the petitioner on an interim order passed in CWP-8984-2020, titled as Sandeep and others Vs. State of Haryana and others, it may be noted that this Court has examined the contents of the afore-said writ petition. In that writ petition, a general order was issued on 16.06.2020, relieving the

Junior Engineers working on contractual basis, without examining the availability of the work load in the Municipal Corporation, Faridabad. It was in these circumstances, the interim order was passed. With regard to the Municipal Council, Narnaul, it is apparent that there are only four posts of Junior Engineers and all are now occupied by the regular employees. In these circumstances, this Court cannot compel the Municipal Council, Narnaul to continue to engage services of the petitioner beyond the sanctioned post or its requirement.

In view thereof, there is no substance in the present writ petition. Hence, it is ordered to be dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above-said judgment.

25.08.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No