

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

CWP-1258-2021 (O&M)
Date of decision : 19.01.2021

Pooja

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Swarn Sandhir, Advocate for the petitioner.

Ms. Kirti Singh, DAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

The petitioner has filed this writ petition with the following substantive prayers:-

“(i) Issue a writ especially in the nature of mandamus directing the respondent No.1 to 3 to adjust the petitioner against the post of Civil Registration Assistant (CRA) Birth and Death with effect from March, 2017 on which the petitioner had been working from 16.04.2007 till March, 2013 and the persons similarly placed persons were adjusted and with further direction to the respondents to grant the consequential benefits i.e. arrears of salary etc. to the petitioner from that date;

(ii) Issue any other writ, order or direction which this Hon'ble Court deems appropriate and fit and grant any other relief to which the petitioner is found entitled to under peculiar facts and circumstances of the case;”

It is the case of the petitioner that he was appointed on contractual basis against the post of Civil Registration Assistant where he worked from 16.04.2007 to March, 2013. In the year 2013, 23 posts of Data Processing Assistant were advertized by the Central Government. She applied and was selected. She was appointed as such on 04.03.2014. The scheme under which the petitioner was appointed as Data Processing Assistant was stopped and therefore, the petitioner went out of service on 16.03.2017. The petitioner, as noticed above, prays that she should be adjusted against the post of Civil Registration Assistant.

Learned counsel for the petitioner while drawing attention of the Court to the instructions (Annexure P-3) dated 08.04.2016, submits that the petitioner has to be adjusted. He further contends that Vikas Beniwal, who was similarly situated person has been adjusted. He further draws the attention of the Court to an order passed by the Deputy Labour Commissioner on 21.05.2018 which has been extracted in Annexure P-10 directing the State to adjust the petitioner on some other post.

Ms. Kirti Singh, DAG, Haryana, has entered appearance pursuant to the supply of advance copy of the writ petition and submits that Vikas Beniwal has never been re-appointed or adjusted. She further submits that the State has no plans to fill the post of Civil Registration Assistant.

After having heard the learned counsel for the parties at length, this Court is of the opinion that an employer cannot be compelled to employ someone in the absence of a right under the Act or the Service Rules. Still further, the attention of this Court was not drawn to any provision enabling the Deputy Labour Commissioner to direct the Government to employ its

ex-employee on some other post. Under the Industrial Disputes Act, 1947, it is only the Labour Court or Industrial Tribunal which can order re-instatement in the service after setting aside illegal order of dispensing with service of a workman.

Keeping in view the stand of the State, this Court does not find it appropriate to issue a writ.

Accordingly, the writ petition is dismissed.

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

19.01.2021
Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**