

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4152-2021(O&M)

Date of decision: 19.05.2021

Vikrant Sharma and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.H.C.Arora, Advocate, for the petitioners

Mr. T.P.S.Chawla, DAG, Punjab

Mr. Rajiv Joshi, Advocate for respondent No.2

Mr. Kanwal Goyal, Advocate for respondent No.3

ANIL KSHETARPAL, J.

1. The petitioners have sought the following substantive reliefs:-

“ii) issue a writ in the nature of Certiorari, for quashing the impugned letter dated 18.01.2021 (Annexure P-14), issued by respondent No.2 (Punjab State Legal Services Authority) to all the Ld. District & Sessions Judge-cum-Chairpersons, District Legal Services Authorities, in the State of Punjab, that the Mediation Staff i.e one Stenographer and one Peon only can be retained by them after 31.03.2021,

subject to certain conditions, in case, the State Government fails to create the desired posts till 31.03.2021, inter-alia, on the grounds that (i) with the issuance of the aforesaid letter by respondent No.2, the petitioners, who are employed as Stenographers and Clerks, are likely to be removed from service, despite having rendered satisfactory service for several years on contract basis; and (ii) in view of the increase of the workload in the District Level Mediation Centres (to which a detailed reference is being made in the body of the instant Civil Writ Petition), which is total arbitrary and unjustified, on the part of respondent No.2 to have permitted the termination of Stenographers, Clerks and Peons, after 31.03.2021, in case, the State Government fails to create the desired posts till 31.03.2021;

iii) issue a Writ of Mandamus, or any other appropriate writ, direction or order, for directing the respondent No.2 (Punjab State Legal Services Authority) to continue the services of the petitioners as Stenographers/Clerks/Peons, in the District Level Mediation Centres, till they are regularized in service;

iv) restrain the operation of the impugned Letter dated 18.01.2021 (Annexure P-14), during the pendency of the instant Civil Writ Petition.”

2. The petitioners are working on contractual basis in the various District Mediation and Conciliation Centres in the State of Punjab. Most of the petitioners are working as Clerks whereas some are working as Steno Typists and peons. They are aggrieved of the communication dated 18.01.2021, the operative part whereof reads as under:-

“It is submitted that in compliance of the order passed by Hon'ble Executive Chairman, Punjab State Legal Services Authority, the matter regarding sanction of one post of Stenographer and one post of Peon for each Mediation Centre in the State of Punjab is taken up with the State Government. Hon'ble Executive Chairman, Punjab State Legal Services Authority has been pleased to permit your goodself to retain the contractual staff of mediation already working in the Mediation Centres till the grant of regular sanction by the State Government or 31.03.2021, whichever is earlier. Further, your goodself is requested not to engage any contractual staff beyond the existing strength of the Mediation staff without the prior permission of the State Authority.

2. Further, Hon'ble Executive Chairman, Punjab State Legal Services Authority has been pleased to permit your goodself to retain the Mediation Staff i.e One Stenographer and One Peon

only, after 31.3.2021 subject to the condition that the remuneration of said staff be paid out of the Head 'Costs' of District Legal Aid Fund, in case State Government fails to create the desired posts till 31.03.2021.”

3. Pursuant to the notice of motion, the writ petition has been contested mainly by the Punjab State Legal Services Authority-respondent no.2.

4. Heard learned counsel for the parties at length and with their able assistance perused the paper book. It may be noted here that the petitioners claim that they should be permitted to continue on the posts in view of their satisfactory work.

5. On the other hand, respondents claim that a decision at the highest level has been taken to retain the services of only one Stenographer and one Peon for each centre. He submits that the petitioners being contractual employees have no right to continue. While drawing attention of the Court to one of the appointment letters, he submitted that wherein it is clearly stipulated that the appointment is purely on contractual basis and hence, liable to be terminated at any time without assigning any notice or reason.

6. Having heard learned counsel for the parties at length, this Bench is of the considered view that the petitioners do not have any right to continue in the service. It is an admitted fact that the posts held by the petitioners are not part of the regular cadre. The petitioners were employed purely on contractual basis. The employer has now taken a decision to reduce the staff and restrict the employment to only one

Stenographer and one Peon at each Mediation and Conciliation Centre in the State of Punjab. In the absence of violation of any statutory provision, the petitioners cannot claim right to continue. Learned counsel representing the petitioners has tried to convince the Court by submitting that the workload has increased. In the considered view of this Bench, such aspect can be examined only by the employer. It would not be appropriate for the Court to issue directions for continuation of the petitioners with the employment, particularly, when the decision is neither shown to be in violation of the statute nor arbitrary in nature. The Hon'ble Supreme Court in **State of Maharashtra vs. Anita and others, (2016) 8 SCC 293** has held that the contractual employees have no right to continue. Hence, no ground to issue the writ, as prayed for, is made out.

7. Dismissed.

19.05.2021

rekha

Whether speaking/reasoned

Whether Reportable

Yes /No

Yes / No

(ANIL KSHETARPAL)
JUDGE