

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

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CWP-3830-2021

Decided on : 26.08.2021

Major Singh

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.Dalbir Singh, Advocate, for the petitioner.

Ms.Kirti Singh, DAG, Haryana.

G.S. Sandhawalia, J. (Oral):-

Prayer in the present writ petition, filed under Article 226 of the Constitution of India, is for quashing of the relieving letter of the petitioner from the post of Peon from 01.02.2019 (Annexure P-4) and the impugned order dated 14.02.2020 (Annexure P-9) whereby his claim for rejoining has been rejected.

It is the case of the petitioner that on a wrong and incorrect ground, the same had been done and thus, the same is not sustainable.

There is considerable merit in the stand of the counsel for the petitioner, to this extent. It is a matter of record that the petitioner was appointed on contractual basis as a Peon vide appointment letter dated 28.06.2013 (Annexure P-2) with respondent No.4. On account of various extensions, he continued and was relieved on 01.02.2019 (Annexure P-4), on account of joining of a regular Peon, after a period of 6 years. He had submitted a representation dated 11.02.2019 (Annexure P-6) that he could be adjusted in some other college. Resultantly, he filed CWP-35215-2019 (Annexure P-8) wherein specific ground was taken by placing reliance upon the instructions dated 02.02.2019. Keeping in view the directions issued on 03.12.2019, the case was to be disposed of and was to be considered, in accordance with law. Relevant portion reads as under:

“[3] Learned counsel contends that posts of Peon are available in the department and in view thereof, the petitioner is entitled to the re-engaged in the department in terms of Clause-3 of Annexure P-5 dated 02.02.2019, but despite the petitioner having submitted representation (Annexure P-6) dated 11.02.2019, no decision has been taken on the same till date and in the circumstances, the

petitioner would be satisfied, if the writ petition is disposed of by directing respondent No.2 to consider and decide the representation (Annexure P-6) dated 11.02.2019, in accordance with law and by taking into account the Instructions (Annexure P-5) dated 02.02.2019 in a time-bound manner.”

It is to be noticed that vide relieving order dated 11.02.2019 (Annexure P-10), the regular Peon who had joined namely, Vikas was relieved on account of his transfer to another Department. In spite of this, vide the impugned order, subsequently respondent No.2 came to the conclusion that the post of Peon had been filled up on regular basis and therefore, the petitioner could not be allowed to work as a Peon and his case was rejected. The said order is not sustainable as Vikas had been transferred and thus, the said order is based on a wrong premise and cannot be sustained and requires a fresh look.

Counsel for the State though has relied upon the instructions dated 23.07.2019 (Annexure R-3) to submit that in view of the large number of recruitments made Government has decided to stop all fresh engagements of Group-D personnel under Part-II of the Outsourcing Policy. However, a perusal of the same would go on to show that for extension beyond a period of 2 years, approval from the Chief Secretary etc. is to be sought.

The reply of the Principal, Government College for Women, Safidon, Jind-respondent No.4 also does not mention that specifically after Vikas, whether any regular person is working on the post of Peon. In such circumstances, this Court is of the opinion that the order dated 14.02.2020 (Annexure P-9) is not sustainable and the same is, accordingly, set aside. Resultantly, the present writ petition is disposed of, directing respondent No.2 to pass a fresh order, reconsidering the issue again, within a period of 6 weeks from the receipt of certified copy of this order, keeping in mind the above facts and circumstances.

(G. S. SANDHAWALIA)
JUDGE

August 26, 2021
Sailesh

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No