

**CWP No.4196 of 2019 (O&M) and
CM-9926-CWP-2021 in/and
CWP No.26003 of 2019**

-1-

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

(117+203)

CWP No.4196 of 2019 (O&M)

Dr. Nidhi Bhardwaj

...Petitioner

Versus

State of Haryana and others

...Respondent

**CM-9926-CWP-2021 in/and
CWP No.26003 of 2019**

**Horticulture Engineers Association, Haryana
and another**

...Petitioners

Versus

State of Haryana and others

...Respondent

Date of Decision:- 02.08.2021

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Shekhar Verma, Advocate for the petitioner
in CWP No.4196 of 2019.

Mr. Pankaj Bali, Advocate for the petitioners
in CWP No.26003 of 2019.

Mr. Sharad Aggarwal, AAG, Haryana.

Mr. Arvind Seth, Advocate for the respondents No.2 and 3.

Mr. Deepak Sharma, Advocate for respondent No.4.

HARSIMRAN SINGH SETHI, J. (ORAL)

By this common order, above mentioned two writ petitions, details of which have been given in the head note are being disposed of as a common question of law and similar facts are involved in both the writ petitions.

In CWP No.4196 of 2019, the grievance of the petitioner is that by the impugned order dated 04.02.2019 (Annexure P/12), the additional charge of the post of Executive Engineer (Horticulture Division, Panchkula) given to the petitioner on 20.11.2018 has been withdrawn in an arbitrary and illegal manner. The prayer of the petitioner namely, Dr. Nidhi Bhardwaj is that she be allowed the extra charge of the post of Executive Engineer (Horticulture Division, Panchkula) in addition to the duties of her substantive post of Manager, Cactus Garden, Panchkula. Learned counsel for the petitioner very fairly concedes that substantive post of the petitioner is Manager, Cactus Garden, Panchkula and she has only been given additional duties of the post of Executive Engineer (Horticulture Division, Panchkula).

That being so, there is no right with the petitioner to demand that the additional duties of the post Executive Engineer (Horticulture Division, Panchkula) which are not the part and parcel of the duty of Manager, Cactus Garden, Panchkula should not be withdrawn from her. It is the settled proposition of law that an employee is entitled to discharge the duties of the post on which he/she is substantively appointed and cannot demand that he/she should be given duties of a particular post either as current duty or as additional charge. The same is in the jurisdiction of the

employer. Withdrawal of the additional duties by the department in the present case cannot be held to be bad, especially, in view of the fact that as of now, the post of Executive Engineer (Horticulture Division, Panchkula) is not even a promotional post from the post of Manager, Cactus Garden, Panchkula.

The second prayer of the petitioner is that she is working against the post of Manager, Cactus Garden, Panchkula and the said post does not have any avenue of promotion and the respondents have already decided in principle to upgrade the said post to the post of Executive Engineer (Horticulture Division) Panchkula, hence, Rules in this regard should be amended at the earliest.

Learned counsel for the respondents submits that the action on the said request is already under active consideration of the department and an appropriate decision by the competent authority, keeping in view the facts, which have already come on record, will be taken expeditiously.

This suffice the grievance of the petitioner as no direction can be given by this Court to an employer to amend the rules as the same is within the jurisdiction and prerogative of the employer only.

As far as CWP No.26003 of 2019 is concerned, wherein, the action being undertaken by the department, whereby, post of Manager (Cactus Garden), Panchkula is being upgraded to that of Executive Engineer (Horticulture Division) Panchkula is challenged. As of now, only the meetings have been held for approval of the proposal and the final decision is yet to be taken by the competent authority by way of amending the rules and notifying the same. In the absence of any amended rule

notified so far upgrading the post of Manager, Cactus Garden to that of Executive Engineer, no grievance can be raised merely on the basis of the proposal being approved by the authorities for amending the rules so as to upgrade the post of Manager, Cactus Garden, Panchkula to that of Executive Engineer. As and when any rules are amended and if the petitioners are of the view that the said amendment is causing prejudice to them, they will be at liberty to avail appropriate remedy available with them under law for redressal of the said grievance.

Both the writ petitions are disposed of in above terms.

CM-9926-CWP-2021

As prayed for, application is dismissed as having been rendered infuctuous.

**CM-1371-CWP-2020 &
CM-1372-CWP-2020 &
CM-9204-CWP-2021**

As prayed for, applications are dismissed as having been rendered infuctuous.

August 02, 2021
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No