

CWP-21104-2021

Date of decision : October 13, 2021

Dharambir Singh

.....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vikas Kumar Dhariwal, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioner, in this case, is a 66 years old, ex-employee of Border Security Force. He was discharged as Head constable from the Border Security Force on 30.11.1999. Petitioner thereafter worked on the post of Peon-cum-Chowkidar from 2012 on contract basis under the Outsourcing Policy Part-II issued by the Government of Haryana. He remained on this post till 03.09.2021. His tenure thereafter has not been extended. Aggrieved from this action, present writ petition has been filed.

Learned counsel for the petitioner submits that two other persons have been engaged on contractual basis which is an absolutely illegal and arbitrary act on the part of the respondents. It is argued that as the petitioner was initially appointed in pursuance to advertisement dated 06.07.2012 and was duly selected for the post, he cannot be replaced by another set of contractual employees.

Learned counsel for the State to whom an advance copy of the writ petition has been supplied, points out that petitioner is clearly overage. Though no specific instructions are in place for re-employment of retired employees or for

employment of contractual employees, it cannot be denied that as per Haryana Civil Services (General) Rules, 2016, age of retirement for employees in Group D is 60 years. Tenure of the petitioner, it is informed, was not extended as petitioner is 67 years old at this point of time.

I have heard learned counsel for the petitioner.

Petitioner was admittedly appointed on contract basis. Apart from the fact that a contractual employee would not necessarily have any vested right to continue on the post, it is an admitted fact that petitioner in this case is about 66-67 years old, at this point of time. Age of retirement for employees in Group D, as prescribed in Haryana Civil Services (General) Rules, 2016 is 60 years. Argument of learned counsel for the petitioner that in the absence of any specific Rules, prescribing or limiting the age, petitioner should be allowed to continue is untenable and without merit, hence rejected. Such an interpretation shall lead to an extremely anomalous and unsavoury situation.

Keeping in view the factual matrix of the case, I do not find action of the respondents in not continuing with the services of the petitioner as Chowkidar due to his advance age, to be unjustified.

Accordingly, writ petition is dismissed.

October 13, 2021
Rts

(Lisa Gill)
Judge

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