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

**CWP-22089-2021(O&M)
Date of decision : 10.11.2021**

Gurkanwar Singh

.....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Manu K. Bhandari, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

Taken up through video conferencing.

CM-16561-CWP-2021

This is an application for placing on record order dated 23.10.2020 (Annexure P-19) and for exemption from filing the certified copy thereof.

For the reasons stated in the application, the same is allowed and order dated 23.10.2020 (Annexure P-19) is taken on record subject to all just exceptions.

CWP-22089-2021

The present Civil Writ Petition has been filed under Article 226 of the Constitution of India for issuance of an appropriate writ for quashing order dated 23.10.2020 (Annexure P-19) passed by respondent No.3 vide which the claim of the petitioner for renewal of his contract on

the same terms as was done in the case of Pankaj Kumar, who was permitted to undertake PhD has been rejected without assigning any reason.

The brief facts relevant to the present case are that the petitioner has done his MA in Social Work. On 29.08.2014, respondent No.2 issued an advertisement (Annexure P-1) for appointment to the post of Counsellors as also to other posts which were available in District Patiala. The petitioner is stated to have appeared in the interview and was successful and was issued an appointment letter dated 30.09.2014 (Annexure P-2). As per the appointment letter, the appointment was purely on contractual basis on a consolidated remuneration. The appointment was initially for a period of one year or such other period as determined by the District De-Addiction and Rehabilitation Society, District Patiala. It was further stated in the appointment letter that services of the employee would liable to be discontinued on issuing 7 days' notice from the Department in case there was no requirement of the post or due to reasons like rationalization of manpower etc. or in case of gross indiscipline, unauthorized absence/leave from duty, misconduct, inefficiency in work or otherwise. An agreement dated 10.10.2014 (Annexure P-4) was also entered into between the petitioner and respondent No.3. Pursuant to the said agreement, the petitioner gave his joining report with the Project Manager, Saket Hospital, Patiala on 10.10.2014 (Annexure P-5). It is an admitted position that the petitioner submitted an application dated 26.08.2015 (Annexure P-6) seeking NOC-cum-Study Leave (without pay) for undertaking PhD course in the subject of Social Work. However, no

immediate response was given by the respondent and on 24.09.2015 a letter was sent to the petitioner by respondent No.4 (Annexure P-7) wherein it was stated that the petitioner had asked for leave without pay for doing his PhD, however, acceptance of the leave would be in the domain of the higher officials because grant of leave without pay did not fall within the jurisdiction of the officer/respondent No.4 and since the leave had not been accepted nor any information has been received from the higher officials, therefore, the petitioner was asked to explain his absence without leave from 01.09.2015 within a period of three days. On 14.10.2015 another letter (Annexure P-8) was sent by respondent No.4 asking the petitioner to join the duty immediately failing which his services would be terminated and on the same day, vide Annexure P-9, the petitioner gave his joining report. Thereafter, vide order dated 27.01.2016 (Annexure P-11) the contract of the petitioner was renewed for a period from 01.01.2016 to 31.03.2016. Vide letter dated 14.07.2016 (Annexure P-14) the petitioner was informed that the contract had not been renewed after 31.03.2016 and his services stood terminated w.e.f. 31.03.2016. Aggrieved by the said order, the petitioner approached this Court by filing CWP No.16050 of 2016 and vide order dated 08.07.2019 (Annexure P-15) the said writ petition was dismissed by a speaking order. Against the said order dated 08.07.2019 the petitioner preferred LPA No.1517 of 2019 and vide order dated 29.01.2020 (Annexure P-16) the same was dismissed as withdrawn and the following order was passed:-

“Learned counsel for appellant prays for and is permitted to withdraw this appeal with liberty reserved to appellant to make a representation to the competent authority. It shall be

open to appellant to cite examples of those similarly situated employees who have been retained by respondent. The representation shall be made within a week and same shall be considered within further period of three weeks.

Dismissed as withdrawn with aforesaid liberty.”

Pursuant to the order dated 29.01.2020, a representation was made by the petitioner (Annexure P-17). Vide order dated 23.10.2020 (Annexure P-19) the representation filed by the petitioner was rejected wherein it has been stated that the appointment of the petitioner was purely on contract basis for only one year on various terms and conditions. In the appointment letter dated 30.09.2014 (Annexure P-2) it was specifically mentioned that the services of the petitioner could be terminated for reasons like gross indiscipline, unauthorized absence/leave from duty, misconduct, inefficient in work as per appraisal system or otherwise, the services of employee would liable to be terminated at any time during the currency of contract period. It has further been stated in the order that the petitioner had violated terms and conditions of the contract/agreement dated 10.10.2014 (Annexure P-4). The petitioner was afforded a personal hearing and thereafter the representation was rejected.

Learned counsel for the petitioner would contend that in view of order dated 29.01.2020 (Annexure P-16) passed by the Letters Patent Bench, the representation ought to have been accepted.

Heard.

In the present case the advertisement (Annexure P-1) was issued in the year 2014 and the contract of the petitioner was not extended beyond 31.03.2016. The writ petition i.e. CWP-16050-2016 was dismissed

vide order dated 08.07.2019 (Annexure P-15). Thereafter, the petitioner challenged the order dated 08.07.2019 (Annexure P-15) by preferring LPA No.1517 of 2019 which was dismissed as withdrawn on 29.01.2020. The representation moved by the petitioner was also disposed off vide order dated 23.10.2020 (Annexure P-19). After almost a year, the petitioner has now filed the present writ petition challenging the order rejecting his representation. The fact remains that the first writ petition i.e. CWP-16050-2016 was dismissed on merits by this Court vide order dated 08.07.2019 (Annexure P-15) and the letters patent appeal i.e. LPA No.1517 of 2019 was also dismissed as withdrawn by the petitioner on 29.01.2020. However, a liberty was given to the petitioner to make a representation to the competent authority citing the examples of those similarly situated employees who have been retained by the respondent. It was further directed that representation be made within a week and the same would be considered within a period of three weeks thereafter. The representation has been considered by the concerned authorities and it has not been decided in favour of the petitioner. The argument raised by learned counsel for the petitioner that the authorities were bound to consider his case favourably in view of order dated 29.01.2020 passed by this Court in LPA No.1517 of 2019 is wholly misconceived. The order dated 08.07.2019 (Annexure P-15) passed in CWP No.16050 of 2016 by the Single Judge of this Court was never set aside and in fact the appeal against the same i.e. LPA No.1517 of 2019 was withdrawn by the petitioner with liberty granted to the petitioner to move a representation. It would in no manner amount to setting aside the order dated 08.07.2019 (Annexure P-15) passed in

CWP No.16050 of 2016 and hence the said order attained finality. On the basis of the order passed by the Letters Patent Bench the petitioner cannot be permitted to re-open an issue which already stood rejected by this Court and had attained finality.

In view of the above, the present civil writ petition is misconceived. I do not find any merit in the present writ petition and, hence, the same is dismissed.

10.11.2021

Yogesh Sharma

**(ALKA SARIN)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO