

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

CWP-6410-2022

Date of decision: March 29, 2022

Krishan Kumar

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sandeep Yadav, Advocate for
Mr. Sandeep Sharma, Advocate for the petitioner.

Ms. Kirti Singh, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondents to adjust the petitioner on the post of Clerk in the office of Senior Town Planner, Faridabad or in any office of the Town and Country Planning Haryana, in view of the letter dated 06.11.2020 (Annexure P-14) issued by the Chief Secretary to Government of Haryana.

2. *Inter alia* seeks compliance of the administrative instructions dated 06.11.2020 (Annexure P-14) issued by the office of the Chief Secretary and contends that in violation thereof, services of the petitioner have been dispensed with.

3. On advance service, learned State counsel appears and opposes issuance of notice of motion.

4. I have heard learned counsel for the parties and perused the record.

5. Perusal of the impugned order reflects otherwise inasmuch as the same is premised on the following reasons:-

“Whereas, vide your representation dated 03.05.2021, you have requested to allow you to join as clerk despite the fact that it was clearly mentioned in the advertisement dated 12.08.2015 that the post of Junior Scale Stenographer, Clerk against sanctioned post and Steno-Typist, Khalasi, Ferro-Khalasi and Sweeper-cum-Chowkidar one each against non sanctioned post are to be filled up on contract basis for a period of one year or till the regular selected candidate are appointed whichever is earlier. The above condition was also reiterated in your appointment letter dated 10.09.2015. Accordingly, you joined on 11.09.2015 for a period of one year as was reflected in your joining report as well as service agreement dated 11.09.2015 executed by you. It is not out of place to mention here that clause 1 of the above said agreement clearly spell out that service of person engaged by the department shall be for a period of not exceeding one year.

That Haryana Staff Selection Commission vide letter No.459 dated 07.09.2020 had recommended the name of Smt. Neelam for the post of Clerk and she was appointed as regular clerk in your place vide this office letter No.516-521 dated 04.03.2021. Consequently according to the condition of service agreement dated 11.09.2015, you were relieved from your duties.

Further, the State Government vide instruction No.16/07/2015/3GS-II dated 28.09.2021 has decided to stop all fresh recruitment/engagement under Part-I & Part-II of the outsourcing policy with immediate effect.

Keeping in view the facts mentioned above, your request to allow you to continue as Clerk on contract basis made by you in your representation dated 03.05.2021 (Annexure P-18) cannot be considered. Hence, your representation dated 03.05.2021 is filled being without merits, on the grounds stated above.”

6. Perusal of the above clearly reveals that the services of the petitioner have not been dispensed with either to accommodate another contractual employee or to keep the post vacant, as has been contended in course of hearing by the learned counsel for the petitioner. Position is otherwise, the regular incumbent is to be appointed on the post after conducting selection process in accordance with law. Needless to say, petitioner shall be at liberty to participate for selection thereof, in case he has chosen not to do so, the same is at his own peril. If he did, but after being

unsuccessful, he cannot now seek his claim in perpetuity to continue on contract, when the regular appointee has already been selected *qua* the same.

- 7. No grounds for interference are made out.
- 8. Dismissed.

(ARUN MONGA)
JUDGE

March 29, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No