

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(213)

CWP-16238-2015 (O&M)

Date of Decision : December 06, 2022

Pooja

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Alka Chatrath, Advocate, for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance of the petitioner is that the petitioner applied in pursuance to the advertisement dated 11.11.2008 for the post of Mechanic Computer Hardware Instructor and keeping in view the recommendation made by the Selection Committee, the petitioner was appointed on contract basis and petitioner joined on the said post as such on 15.01.2009.

Learned counsel for the petitioner argues that by the time the petitioner joined, a writ petition was already pending for consideration bearing *CWP No.5289 of 2007 titled as Ashok Kumar and others vs. State of Haryana and others, decided on 24.01.2008* seeking regularization of their services. In the said writ petition, an order was passed that the

petitioners will be only entitled to continue in service till the regular selected candidates joined and in case, if any of the Department is closed, then only the services will be discontinued. Against the order passed by the Division Bench dated 24.01.2008, State filed SLP No.9230-9231 of 2009 titled as State of Haryana and others vs. Ashok Kumar and others wherein, an order was passed by the Hon'ble Supreme Court of India in the year 2011 that the possibility of accommodating the employees, who are working, be explored after which said SLP was disposed of on 21.01.2013 wherein, the Government stated that there are 258 people, who are working, whose services will be regularised on humanitarian ground in case they fulfil the requisite qualification.

Learned counsel for the petitioner submits that the petitioner is entitled for the benefit of the said order for regularization of her services.

Learned counsel for the petitioner further submits that not only this, the respondents, keeping in view the workload, again issued an advertisement in the year 2015 for appointment of Instructors including in the category in which the petitioner had worked.

Learned counsel for the respondents submits that the claim of the petitioner was not covered by the judgment of the Hon'ble Supreme Court of India as the petitioner was not part of 258 people, who were identified to be regularised and in pursuance to the advertisement, the petitioner never competed for, hence, the petitioner cannot raise any grievance in this regard.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not disputed that the petitioner had already worked with the Department. There is nothing on record to show that the work and conduct of the petitioner was such that the petitioner could not be appointed on the said post again. The petitioner was only relieved from service due to the non-availability of the workload, which workload has been re-assessed now by the respondents themselves.

It is incumbent upon the respondents to consider the claim of the petitioner for re-adjustment, who has already worked on the post prior to the issuance of an advertisement calling from fresh names.

Be that as it may, let the petitioner file an appropriate representation with the respondents for allowing her to re-join the service raising the grievance that now workload exists so as to readjust the petitioner. In case, any such representation is filed by the petitioner, the same be given consideration keeping in view the workload, which exist and the necessity of a personnel to discharge the said duty. The assessment of the workload will depend upon the opinion of the Department only and in case, the Department is of opinion that the petitioner can be accommodated keeping in view the workload, appropriate order in the said regard be passed within a period of eight weeks of the receipt of any such representation.

The present writ petition is disposed of in above terms.

As the main case has been disposed of, application i.e. CM-12935-CWP-2015 also stands disposed.

December 06, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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