

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

CWP-19618-2022 (O&M)

Date of decision: September 01, 2022

Rishi Raj

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Parveen Chauhan, Advocate for the petitioner.

Mr. Pankaj Middha, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing impugned order dated 01.08.2022 (Annexure P-10), whereby services of the petitioner have been terminated by non-competent authority, acting upon his performance appraisal report (P.A.R.) and allegedly, without giving any prior notice or holding any departmental inquiry or following principles of natural justice and due process of law.

2. Pledged case is that petitioner was appointed on contract basis to the post of District Account Manager under the National Health Mission, Haryana at Mandikehra (Nuh) Mewat in District Health Society, by respondent No.5, for one year. Contract was renewed further by respondent No.5. Meanwhile, vide notification dated 29.12.2017 service bye-laws for governing conditions of service of contractual employees of State Health Mission, Haryana 2018 were notified. Subsequently, vide office order/letter dated 15.04.2019 guidelines regarding implementation of

minimum performance benchmark of Key Programme Management Staff were framed. According to this, Key Management Staff have to score at least 40 marks out of 100 marks for renewal of contract. For the financial year 2021-22, petitioner secured 83 marks out of 100 in the minimum performance bench mark report. However, his minimum performance bench mark criteria was re-evaluated/ re-assessed by the Civil Surgeon, Nuh, who is alleged to be not even competent to do so, not being the Nodal Officer, and that too without any notice to the petitioner. Same was downgraded below the minimum score of 40 marks. Resultantly, minimum performance bench mark for the financial year 2021-22 was revised and petitioner was given 38 marks out of 100. Vide order dated 16.06.2022, contract was renewed with warning for three months i.e. till 30.06.2022. On 01.08.2022, respondent No.3 terminated the services of the petitioner on the basis of performance appraisal report. Order of termination was passed on 01.08.2022, but term had expired/ terminated w.e.f. 30.06.2022 which was never communicated to the petitioner. Respondent Department issued another advertisement for managerial posts through District Health and Family Welfare Society, Mewat (Nuh) under NHM on contractual basis, showing the post vacant on which petitioner was working. Petitioner submitted his representation dated 11.08.2022 (Annexure P-13), but to no avail.

3. Having already expressed my opinion vide order dated 22.08.2022 in **CWP-18452-2022** titled **Rihan Raja versus State of Haryana**, wherein same impugned order, which is common to the petitioner herein and the petitioner therein, has been upheld. I see no reason why this instant petition be also not met with the similar fate.

4. However, it is also the contention of learned counsel for the petitioner that for the subsequent quarter, the petitioner had secured 42 marks as against 40 required for continuation of his service, but same has been given a complete short-shrift. Being so, given that the petitioner had been on the contractual job for almost 10 years, it is expected of the respondents to consider his case sympathetically, instead of giving him too harsh treatment for his one time performance appraisal, wherein concededly he secured 38 marks as against minimum pre-requisite of 40. Petitioner is at liberty to pursue his pending representation or file a fresh one. Needless to say, representation shall be entertained and decision taken within 30 days, only if the services on the post in question are still required and substitute against the petitioner has still not joined, as on today, in order to avoid any adverse consequences *qua* third party.

5. Disposed of accordingly.

(ARUN MONGA)
JUDGE

September 01, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No