

CWP-4982-2020

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

CWP-4982-2020

Judgment reserved on: 21.03.2023

Pronounced on : 28.03.2023

Ruchi Singla

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Ranvir S. Chauhan, Advocate,
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G. Haryana.

HARNARESH SINGH GILL, J.

The present petition has been filed for issuance of directions to the respondents to permit the petitioner to join her duty as a Computer Instructor, at Govt. College, Jind, and to release her salary and allowances w.e.f. 07.04.2019 till she is allowed to join back the duties by treating her to be in continued service.

Learned counsel for the petitioner has contended that in response to the advertisement issued by respondent No.2 in the year 2010, the petitioner had applied for the aforesaid post; that the petitioner was offered appointment vide order dated 29.05.2015; that the petitioner joined the service on 30.05.2015 on the aforesaid post on contract basis; that the petitioner was ill-treated by the Principal, Govt. P.G. College, Jind, by overburdening her with the duties inasmuch as she had been compelled to attend and comply with the messages given by the Principal from 7.00

A.M. to 9.28 P.M; that the petitioner had to perform more than 14 hours duty as against 07 hours as per policy guidelines, apart from other duties allocated to her during 2019; that even the petitioner had been subjected to perform Class-IV duties, and that faced with such humiliation, the petitioner submitted resignation on 06/07.04.2019 under protest through email addressed to respondent No.3.

Learned counsel for the petitioner has further contended that the petitioner was a contractual employee and had been compelled to submit the resignation under protest to express her grievance against respondent No.3, otherwise she had no intention to resign; that on 09.04.2019, the petitioner was directed by respondent No.3 to hand over the charge; that the petitioner handed over the charge on 11.04.2019 to avoid further complications; that the petitioner had been deprived of performing her duties after taking the charge forcefully; that the petitioner had been served with a show cause notice dated 26.04.2019 by the Principal, Govt. P.G.College, Jind, for termination of her contractual services on the ground of misconduct, and that there was no provision for submission of resignation by a contractual employee.

Learned counsel for the petitioner has further contended that the services of the petitioner were intended to be terminated by way of punishment by holding the petitioner guilty of misconduct; that the petitioner was called to appear before the Joint Director (Colleges), Higher Education, Haryana on 30.07.2019, for inquiry qua her grievances against respondent No.3; that the petitioner submitted full facts and produced documentary evidence in support of her case, but the Inquiry Officer had

not acted fairly in the matter and she had to give an undertaking that she would withdraw her complaint in case she was allowed to join the duties, and that however, the petitioner has not been allowed to join the duties till date.

Learned counsel has further contended that the petitioner also approached the Haryana Human Rights Commission, on 18.11.2019; that it was revealed by the Joint Director (Colleges), Higher Education, Haryana that resignation of the petitioner had not been accepted by the Principal, Govt. College, Jind and rather the same had been forwarded to the Directorate, Higher Education, Haryana, and the Joint Director also informed that grievance put forth by the petitioner had not been found true on the basis of information furnished by the Principal, and that finally, the Haryana Human Rights Commission disposed of the matter on 18.11.2019.

Learned counsel for the petitioner has further contended that on 18.11.2019, the petitioner also made a representation for withdrawal of her resignation, which had not been accepted and that the post of Computer Instructor had not yet been filled up. Learned counsel further contends that similar communications had also been made by the petitioner to respondents No.1 and 2, but her grievance has not been redressed so far.

In support of his contentions, learned counsel for the petitioner relied upon the judgments rendered by the Hon'ble Supreme Court in 'Dr. Prabha Atri Vs. State of U.P. and Others' 2003(1) Apex Court Judgments (SC) 113, 'State Bank of Patiala Vs. Phoolpati' 2005 AIR (Supreme Court) 1918 and 'Ms. X Vs. Registrar General, High Court of Madhya Pradesh' and another 2022 (3) Scale 99 and by the Bombay High Court in

'Namita Mahadev Uparkar Vs. Municipal Corporation of Gr. Mumbai and Ors.' 2021 (3) SLR 651.

On the other hand, learned State counsel has submitted that the petitioner had submitted the resignation without any pressure; that the petitioner had also moved a complaint bearing No.827/8/2019 before the Haryana Human Rights Commission; that it was brought to the notice of the Commission that the petitioner was a contractual employee and after expiry of the contract, her services ceased to exist; that the petitioner had also filed a mercy petition before the Director (Colleges), Panchkula, to give her employment and to withdraw all the allegations levelled by her against the senior officials; that after considering the case, the Commission, vide order dated 18.11.2019, had disposed of the matter. Learned State counsel has referred to the following relevant extract of the order dated 18.11.2019 passed by the Haryana Human Rights Commission:

“.....

6. As the allegations of the complainant were found to be incorrect by the Enquiry Officer, therefore, no further direction is required to be issued in the matter by the Commission and as such, the present complaint is disposed of accordingly. However, it would be mentioned here that if the complainant would move an application for giving her employment/for further extension of contract, the same may be considered by the competent authority sympathetically in accordance with law/rules.....”

Learned State counsel has further contended that in pursuance of the observations made in the aforesaid order, the petitioner had moved an application for withdrawal of her resignation and to allow her to rejoin

the duties; that after due consideration, respondent No.2 had rejected the said application.

I have heard the learned counsel for the parties.

The petitioner was engaged as a Computer Instructor purely on contract basis. She was offered appointment vide order dated 29.05.2015. In pursuance thereof, she joined the service on 30.05.2015. It is the case of the petitioner that she submitted resignation on 06/07.04.2019 at 7.30 P.M., under protest. The Commission while disposing of the complaint filed by the petitioner, had taken into consideration that resignation of the petitioner had not been accepted but after expiry of the contract period, her services had ceased to exist, as stated by the Joint Director, Higher Education, Haryana.

In the present case, the petitioner had submitted the resignation though under protest but voluntary handed over the charge on 11.04.2019. Even otherwise, the petitioner was working on contractual basis and after expiry of the contract period, her services came to an end. It is settled law that an employee on contract cannot seek continuation in service. Such contract for a fixed period automatically stands terminated after the expiry of the stipulated period.

The judgments relied upon by the learned counsel for the petitioner are distinguishable and hence not applicable to the present case.

Dr. Prabha Attri's case (supra), was a case of permanent employee governed by the Hospital Service Rules, and under the said Rules, a permanent employee was required to give three months' notice of resignation.

In Phoolpati's case (supra), resignation submitted by Hari Ram voluntarily, was accepted by the Bank. Hari Ram was a regular employee of the Bank. It was held by the Apex Court that once the employee had intended to retire voluntarily and subsequently reiterated it, the High Court was not justified in setting aside the action of the Bank in relieving him. Registrar General, High Court of Madhya Pradesh's(supra), was again a case of a permanent Additional District & Sessions Judge, whose resignation submitted under compelling circumstances, was held not to be voluntary. The petitioner therein was governed by the Madhya Pradesh Higher Judicial Services (Recruitment and Conditions of Service) Rules.

In Namita Mahadev Uparkar's case (supra), the petitioner therein was a regular employee of the Municipal Corporation and was governed by the Bombay Municipal Corporation (Service) Regulations, 1989 and the said Rules clearly stipulated one month's notice of resignation by a permanent/temporary employee.

In the present case, the services of the petitioner are not terminated on the ground of any misconduct or unsatisfactory work. Rather, the petitioner had submitted her resignation, which though was not accepted, but in the meantime, the contract period of the petitioner's employment, had expired. Above all, neither any termination order was passed at any stage, nor any step was taken after the petitioner had tendered her resignation. It has also been noticed by this Court that the agreement executed by the petitioner with the Department shall automatically come to an end without any requirement of notice or compensation.

No other point has been urged.

In view of the above, no case for interference is made out.
Dismissed.

28.03.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No