

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

LPA-203-2023 (O&M)

Date of decision: 06.12.2023

State of Haryana and ors.

...Appellants

Vs.

Seema Kohar

...Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AMAN CHAUDHARY**

**Present: Mr. Deepak Balyan, Addl.A.G, Haryana
for the appellants.**

**Mr. Rajat Mor, Advocate
for the respondent.**

Ritu Bahri, Acting Chief Justice

C.M. No. 598-LPA-2023

For the reasons mentioned in the application, delay of 70 days
in filing of the appeal is condoned.

The application stands allowed.

L.P.A. No. 203-2023

1. The instant appeal, under Clause X of the Letters Patent Appeal, is against the judgment dated 17.11.2022 passed by the learned Single Bench of this Court whereby the writ petition filed by the respondent challenging order dated 12.11.2012 vide which the writ-petitioner/respondent was relieved from the service by the Department of Food and Drugs Administration where she was working on the post of Chemist.

2. The writ petitioner/respondent was working as Chemist in the department Food and Drug Administration, as per appointment letter dated

18.08.2004 (P-1). Thereafter, the Haryana Public Service Commissioner advertised the post of Lecturer in Chemistry (School Cadre) HES-II Group B, vide advertisement No. 3 of 2009 and corrigendum dated 30.04.2010 and the writ-petitioner/respondent applied against the same, after taking the approval from the authorities concerned. Subsequently, she was selected as Lecturer in Chemistry (School Cadre), vide order dated 07.11.2012. However, while giving permission to join the selected post of Lecturer in Chemistry (School Cadre), the department of Food and Drug Administration vide letter dated 12.11.2012 (P-7) imposed a condition that though the writ-petitioner/ respondent is relieved but as she was not working on the permanent/substantive capacity in the said department, her lien for the post of Chemist will not be retained in the department. In spite of this condition, the writ-petitioner/respondent joined the post of Lecturer in Chemistry (School Cadre) and was adjusted in Govt Model Sanskriti Senior Secondary School, Sanghi, vide order dated 01.02.2013, vide Endst dated 12.02.2019 (P-8). She was relieved by the Senior Drugs Control Officer, Rohtak Zone, Rohtak, vide office memo dated 13.02.2013 (P-9).

3. Subsequently, the writ-petitioner/respondent submitted a representation dated 02.11.2014 (P-10) to the Commissioner, Food and Drugs Administration Department, Haryana Panchkula to revert her to her parent department due to unavoidable family circumstances on the post of Chemist and the same was rejected, vide letter dated 24.02.2015 (P-16) on the ground that her lien has been terminated and she cannot be allowed to join the department again. The writ-petitioner/respondent then challenged the condition dated letter dated 12.11.2012 (P-7) by filing CWP No. 14571-2016 and the same was allowed on 17.11.2022.

4. The Learned Single Judge had considered this aspect and

allowed the writ petition by referring to a Division Bench Judgment of this Court in a case of ***LPA No. 354 of 1963, decided on 26.11.1964 titled as “Dharam Singh vs. State of Punjab”*** wherein it has been held that even if no formal order of confirmation is passed, when a probationer completes maximum period of probation but the said employee is not reverted to the substantive rank in case of promotion of his/her services are not terminated in case of direct recruitment, there is automatic confirmation of the said probationer.

5. The Learned Single Judge while referring to Rule 3.14 of the Punjab Civil Services Rules applicable to Haryana had rightly held that the lien of writ petitioner/respondent was required to be suspended once she was appointed outside the cadre till the writ petitioner/respondent was made substantive and permanent in the cadre of Lecturer in Chemistry (School Cadre).

6. The said proposition of law came up for consideration before Hon’ble the Supreme Court in ***Civil Appeal Nos. 354 and 355 of 1971, decided on 17.11.1975*** wherein the above mentioned Rule was interpreted to mean that the employee retains lien on various post even after appointment on a post outside cadre till confirmation on the post.

7. Learned State counsel has not been able to show any other judgment contrary to the above that after working for 09 years, even if confirmation order is not passed, the employee is not to be treated as permanent employee.

8. The Learned Single Judge has rightly set aside the relieving order dated 12.11.2012 whereby the condition was imposed upon writ petitioner/respondent, as the same was contrary to the Rule. Further it is also not in dispute that the post of Chemist was still lying vacant, as per

affidavit dated 18.02.2020 given by the appellant before the learned Single Judge.

9. Thus, the finding recorded by the learned Single Judge, does not warrant interference. No question of law warranting admission of the appeal would arise.

10. In view of the above, the appeal fails and the same is dismissed

11. Since main appeal itself has been dismissed, all civil misc applications stand disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

06.12.2023
G Arora

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