

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 110

CWP-5190-2023

Date of decision : 18.07.2023

Kavita Rani

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.R.K.Malik, Senior Advocate, with
Mr.Samrat Malik, Advocate, for the petitioner.

Mr.Pankaj Middha, Addl.A.G., Haryana.

DEEPAK SIBAL, J. (ORAL)

1. Through order dated 07.12.2015 the petitioner was appointed as a Clerk in the office of the Deputy Commissioner, Karnal. Her appointment was on contractual basis. On 30.09.2020 her services were terminated to make way for a regular appointee. The petitioner, alongwith other similarly placed persons, challenged their relieving through a petition filed before this Court being CWP-15996-2020-*Archana and others vs. State of Haryana and others* on the ground that the Government of Haryana had issued instructions dated 06.11.2020 which were to the effect that Clerks appointed on contract basis be adjusted against vacant posts until regular appointment is made and since on 30.09.2020, there were several vacant posts of Clerks, her services could have not been terminated. On 22.03.2022 this Court disposed of the petitioner's petition by issuing directions that the petitioners therein be allowed to continue in service against the vacant posts of Clerks. However, it was clarified that restoration of the petitioners' services on contract basis would not render any special equity and/or right to claim regularization and/or shall not continue in

perpetuity as also that the same would be only an *ad hoc* arrangement in terms of the afore instructions as also that the petitioners therein would have to make way for the regular appointees.

2. In terms of the afore referred order of this Court the petitioner was taken back in service but on 05.08.2022, on the appointment of regular Clerks, the petitioner, being a contractual employee, was relieved. It was categorically mentioned in the relieving order that the petitioner's services were not being continued as no post of Clerk was available. The petitioner did not challenge such action of the State. After over six months of the petitioner's relieving, on 27.02.2023, on the promotion of certain Clerks the petitioner has again approached this Court through the instant petition for appointment/adjustment against the posts vacated by the promoted Clerks.

3. Learned senior counsel appearing for the petitioner submits that as per the instructions of the Government of Haryana dated 06.11.2020 a contractual employee like the petitioner has a right to continue in service against existing vacancies; after the petitioner had been relieved, several posts of Clerks had become available on the promotion of their incumbents and therefore, in terms of the aforesaid instructions, the petitioner was entitled to be re-appointed/adjusted against such posts.

4. Learned senior counsel for the petitioner has been heard and with his able assistance the record of the case has also been perused.

5. The petitioner bases her entire claim on the instructions of the Government of Haryana dated 06.11.2020. The same read as under: -

"I am directed to invite your attention on the subject noted above and to say that due to newly selected candidates against the posts of Clerks it has come to notice that the Contractual persons (Outsourcing Policy Part-I and II) already engaged against these posts are being relieved by some departments.

2. *This matter has been examined by Government and it has been decided that wherever the post of Clerk is still lying vacant in the Head office or field offices, due to promotion or creation of posts or otherwise, they may be adjusted against such posts until regular appointment is made against such posts. The requisition for such vacant posts should also be sent to the HSSC for recommendation of candidates against vacant posts.*
3. *These instructions may please be brought to the notice of all concerned."*

6. As per the afore quoted instructions a Clerk appointed on contractual basis is entitled to continue in service until regular appointment is made against the post being held by such Clerk. These instructions nowhere provide for re-appointment/adjustment of contractual Clerks who have already been relieved.

7. On 07.09.2015 the petitioner was appointed on contractual basis. Through the impugned order dated 05.08.2022 she was relieved to make way for the regularly appointed Clerks. In the impugned order it is clearly stated that on the joining of the regularly appointed Clerks no post of Clerk would remain vacant. The petitioner also does not dispute this fact. In fact she did not even challenge her relieving. Even otherwise, she was rightly relieved.

8. After the petitioner had been relieved, on the promotion of certain Clerks in February, 2023, the petitioner seeks re-appointment/adjustment against the posts vacated by them. She bases her entire claim on the afore quoted instructions dated 06.11.2020.

9. The afore quoted instructions do not support the petitioner's case as they do not clothe the petitioner with any right of re-appointment or adjustment after having been relieved. Rather, these instructions go against her as it has specifically been provided therein that a contractual employee like the petitioner has to make way for regular appointees and in her case this is exactly what has been done. A subsequent vacant post which becomes available after about six

months of the petitioner’s termination would not clothe her with any right to be re-appointed and that too on contractual basis on the ground that she was earlier serving the department on contractual basis.

10. In the light of the above, no merit is found in the instant petition.
11. Dismissed.

18.07.2023
shamsher

[DEEPAK SIBAL]
JUDGE

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