

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-9735-2019 (O&M)
Decided on :11.12.2023

Shivani Rohila

. .Petitioner

Versus

State Of Haryana And Others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Dalbir Singh, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that the petitioner was working on the post of restorer in the department concerned but she was also asked to perform the duties of the library attendant in the department, which is a group D post.

2. Learned counsel for the petitioner submits that once the appointment of the petitioner was on the post of restorer, the petitioner should have been allowed to continue in service till the said post is filled-up through a regular process of appointment or the work of the said post existed whereas, while making selection to the post of library attendant, the services of the petitioner were terminated by the respondents-department vide impugned order dated 25.01.2019 (Annexure P-9) which is arbitrary and illegal but while issuing notice of motion in the present petition, the impugned order dated 25.01.2019 (Annexure P-9) has been stayed by the Co-ordinate Bench of this Court and the petitioner was allowed to continue in service.

3. Learned counsel for the respondents submits that in the present case, there is no work of the post of restorer with the department, hence, even if it is assumed that the petitioner was appointed on the post of restorer by the department, she cannot be allowed to continue in service in the absence of any need of the work on the post of restorer.

4. Learned counsel for the petitioner submits that nothing has come on record as to whether the work of the post of restorer exists or not, hence, till any decision is taken by the Government of Haryana by taking into consideration the number of the posts of restorers and the employees who are discharging the work of the post of restorer, statement made by learned counsel for the respondents cannot be taken into consideration.

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

6. Once an employee has been appointed, he/she is entitled to continue in service till the work of the said post exists or till he/she is replaced by the regularly selected employee. In the present case, the stand of the respondents is that work of the post of restorer does not exist but said statement of the respondents is not substantiated by the avermentes made in the reply. That being the factual position, the present petition is **disposed of** with the direction of the respondents to evaluate as to whether, the work of the post of restorer on which the petitioner was appointed exists in the department concerned or not. The said opinion be averred at on the basis of instructions which have been issued by Government of Haryana including the factual aspect that as to how many posts of restorer exists with the department concerned and how many employees are discharging their duties on the said posts of restorer.

7 Hence, an appropriate order be passed by the respondents as to

whether the services of the petitioner on the post of restorer are needed or not and in case, the respondents came to the conclusion that work of the post of restorer does not exist in the department concerned, the said opinion will be supported by the facts and not merely by recording the statement.

8. Till any fresh order is passed by the respondents, the petitioner shall be allowed to continue in service.

9. Disposed of in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

11.12.2023

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No