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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13713-2021 (O&M)
Date of Decision: 21.02.2023

PRIYANKA RANI

.. Petitioner

VS

REGISTRAR, PUNJAB ENGINEERING COLLEGE AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Sharma, Advocate for the petitioner.

Mr. Ashwani Talwar, Advocate for the respondents.

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Manoj Bajaj, J. (Oral)

Priyanka Rani-petitioner has filed this writ petition under Article 226 Constitution of India seeking a writ of Certiorari/Mandamus to challenge the action of respondent-University, whereby her contractual appointment was extended for a period of five months instead of one year vide letter dated 21.01.2021 (Annexure P-6). Further, prayer has been made for directing the respondent to re-appoint her on the post of Assistant Registrar on contractual basis with continuity of service and all consequential benefits till the post is filled up by way of regular appointment.

Learned counsel submits that the respondent-University had issued advertisement in February, 2018 for filling up one post of Assistant Registrar on contract basis for a period of one year, and pursuant to it the petitioner had applied, and she was appointed vide appointment letter dated 06.02.2018 (Annexure P-2). He further submits that subsequently, the

contractual appointment was renewed from time to time and was lastly extended vide letter dated 21.01.2021 (Annexure P-6), whereby her tenure was extended w.e.f. 16.02.2021 to 30.06.2021. According to the learned counsel, the work and conduct of the petitioner was satisfactory, but as she had conceived pregnancy, therefore, in order to avoid the benefit of maternity leave to the petitioner in terms of the Maternity Act, 1961, her tenure was extended for a period of five months instead of one year, as the employer was aware of the petitioner's pregnancy. Learned counsel has argued that the action of the respondent-University is patently wrong, illegal and arbitrary, as the appointment of a contractual employee cannot be substituted with any other employee on contract basis. In support of her case, he has relied upon the decision dated 09.07.2019 passed by this Court in **CWP-432-2014** titled "**Navreet Kaur Vs. State of Punjab and others**", decision dated 09.08.2005 passed by Delhi High Court in **CWP-4798-2003** titled "**Bharti Gupta Vs. Rail India Technical and Economical Services Ltd. (Rites) and others**", decision dated 11.03.2022 passed in **CWP-1278-2020** titled "**Dr. Baba Saheb Ambedkar Hospital Govt. of NCT of Delhi & Anr. Vs. Dr. Krati Mehrotra**", . He prays that the interference is warranted by this Court by exercising the jurisdiction under Article 226 Constitution of India.

After hearing the learned counsel and considering the material on record, it transpires that initially the petitioner was appointed vide appointment letter dated 06.02.2018 (Annexure P-2) on the post of Assistant Registrar and her last extension was made vide office order No.58 dated 21.01.2021, thereby extending her tenure upto 30.06.2021. As per averments in the writ petition, the tenure was extended only for a period of

five months because she was expecting delivery in October, 2021 and employee was aware of petitioner's pregnancy, but in the considered opinion of this Court, the cause of action set up in the writ petition accrued to petitioner in January, 2021, whereas she has filed the writ petition in July, 2021 i.e. after expiry of the extended period. Concededly, there is nothing on record to show that the post held by the petitioner after expiry of her tenure was filled up by appointing any other employee.

At this stage, learned counsel has submitted that in December, 2022, the respondent-University had issued the advertisement for making the contractual employment on various posts including the post of Assistant Registrar, however, pursuant to the said advertisement, the petitioner has not made any application. The argument that because of petitioner's pregnancy, her tenure was not extended for a year is only based on inference, as after initial appointment of the petitioner in the year 2018, there was breakout of pandemic Covid-19 in March, 2020 and the aggressive second wave also arrived in the beginning of year 2021, therefore, it cannot be construed that only because of petitioner's pregnancy, her contractual period was not extended for one year. The decisions relied upon by the learned counsel are not applicable to the facts and circumstances of this case, as in these cases, the employee had claimed the benefit of Maternity Act, 1961.

Thus, considering the conduct of the petitioner, who has opted to challenge the extension letter dated 21.01.2021 (Annexure P-6) after completion of the extended period as well as the fact that the University has already issued advertisement for filling up the post in December, 2020, this Court is not inclined to exercise the extra ordinary writ jurisdiction under

Article 226 Constitution of India.

Dismissed.

21.02.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No