

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

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**CWP-13499-2017 (O&M)
Date of decision: 09.03.2023**

Sandeep Kumar and others

...Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Arihant Goyal, Advocate for the petitioners.

Ms. Tanushree Gupta, DAG Haryana.

Mr. Harsh Aggarwal, Advocate for respondent Nos. 3 & 4.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition is for issuance of a writ in the nature of Mandamus, directing respondent-authorities to adjust the petitioners against the vacant posts of Laboratory Attendants (Technical Assistants) as the petitioners were recruited after following the due procedure and have rendered satisfactory services for about 3 years.

Written statement dated 14.03.2018 filed on behalf of respondent Nos. 1 to 4 are already on record.

Learned counsel for the petitioners relies upon the noting dated 14.12.2015, put up before the Hon'ble Chief Minister for order and he was of the view that the posts of Laboratory Attendants were important and useful for the Schools and thus, the salary of the Laboratory Attendants, was to be included under the State Scheme for which the funds were to be provided by the Finance Department.

It is, thus, stated that till date no action has been taken by the Chief Secretary/Principal Secretary (Education), Govt. of Haryana, on the said note.

Learned State counsel points out that as per the written statement filed on behalf of respondent Nos. 1 to 4, in the appointment letter of the petitioners, it was specifically mentioned that their services will be purely on temporary basis and contractual in nature and they can be relieved after the expiry of contract, if not extended further, which was accepted by the petitioners; that the petitioners were relieved from the service on 08.06.2016 and the present petition was filed in the month of May-2017.

I have heard the learned counsel for the parties and have also gone through the case file.

The relevant Paragraphs from the written statement filed on behalf of respondent Nos. 1 to 4, would read as under:-

"2. That the present writ petition is liable to be dismissed as the petitioners have concealed the material facts from this Hon'ble Court. The true facts of the case are that Haryana School Shiksha Priyojna Parishad (HSSPP) is a registered Society which is implementing the Sarva Shiksha Abhiyan (SSA) and Rashtriya Madhyamik Shiksha Abhiyan (RMSA) Programmes launched by the Central Government. Both are the joint ventures of Central Government with the State of Haryana and both the programmes are being run on sharing basis. Project Approval Board (PAB) in its meeting approved 709 and 21 posts of Lab. Attendant on a consolidated salary of Rs. 9000/- p.m. for 3 months. After the approval from Central Government, these posts were advertised vide advertisement dated 14.08.2011 (Annexure P-2). Various candidates applied for these posts and a written test was held by C-DAC, Mohali on 07.11.2011 in which 195 candidates appeared. Out of them, 165 candidates were called for verification of documents.

89 candidates were selected and were issued appointment letters (Annexure P-4). However, 12 candidates left the job from time to time and ultimately, only 65 candidates including the petitioners remained in service till 08.06.2016. These posts of Lab. Attendant were being sponsored by the Central Government but in the PAB meeting held on 12.03.2015, the financial support for these posts of Lab. Attendant was not approved for the year 2015-16. The copy of the letter dated 11.05.2015 is attached herewith as Annexure R-3/1. Still the petitioners were permitted to work till 08.06.2016 and the entire salaries were released to them for the said period vide letter dated 16.03.2017.

3. That the present writ petition is liable to be dismissed as the petitioners cannot compare themselves with the Information cum Office cum Library Manager/School Information Manager (IOLM/SIM) as the same is a different post. The law is well settled that the employees of 2 separate posts or the employees on the same post by in different departments cannot compare their service conditions.

4. That the present writ petition is liable to be dismissed as it was specifically provided in the appointment letter (Annexure P-4) that the services of the petitioners will be purely on temporary basis and contractual in nature and they can be relieved after the expiry of contract if not extended further. The petitioners have accepted the said terms and conditions and are bound by the same. Moreover, no regular post is available with the answering-respondents and therefore, the petitioners cannot be considered for continuation or regularization.

5. That the present writ petition is liable to be dismissed for delay and laches. The petitioners have already been relieved on 8.6.2016. The present petition has been filed in May, 2017 i.e. after the period of around one year from the date of their relieving.”.

The sole reliance of the the petitioners is on the internal noting of the Department. The intra-departmental noting is persuasive in nature and unless the same is approved by the competent authority, the same cannot be sought to be invoked to

impose directions upon the authorities. The requirement of a particular set of employees is the prerogative of the employer taking into consideration a given necessitated situation. No directions, therefore, can be imposed upon the respondent-authorities, to act in a manner, prayed for by the petitioners.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

(HARNARESH SINGH GILL)
JUDGE

09.03.2023
Mangal Singh

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