

224.

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

CWP-16060-2017

Date of Decision: 12.01.2023

MS. SHILPA SHARMA

.... Petitioner

Versus

HARYANA HUMAN RIGHTS COMMISSION

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ashok Sharma Nabhewala, Advocate,
for the petitioner.

Mr. Puneet Bali, Senior Advocate, with
Mr. Uday Agnihotri, Advocate, for respondent No.1.

Mr. Kapil Bansal, DAG, Haryana.

JAISHREE THAKUR.J

The present writ petition has been filed under Article 226/227 of the Constitution of India seeking a writ in the nature of certiorari for quashing order dated 04.07.2017, Annexure P-7, vide which the services of the petitioner as Senior Scale Stenographer were declared as contractual w.e.f. 04.07.2017 till 30.08.2017 despite the fact that she has been appointed on regular basis against the said post. Petitioner also seeks quashing of order dated 25.07.2017, Annexure P-9, whereby respondents have dispensed with her services w.e.f. 27.07.2017.

In brief, the facts of the case are that the petitioner was appointed as officiating Senior Scale Stenographer in the regular pay scale of Rs.9300-34800 plus Rs.3200 Grade Pay and DA with the Haryana Human

Rights Commission vide order dated 22.06.2015. She submitted her joining report on 06.07.2015 and successfully completed her one year probation period. The petitioner was served with communication dated 23.12.2016 vide which the appointment/probation period of the petitioner was extended for one month after a gap of four months of completion of the probation period. Thereafter, the respondents issued letter dated 04.07.2017 vide which the petitioner was issued another appointment letter appointing her as Senior Scale Stenographer on contract basis w.e.f. 04.07.2017 to 31.08.2017 or till regular appointment is made, whichever is earlier. Thereafter the Registrar, Human Rights Commission, Chandigarh invited applications for filling up the posts of Senior Scale Stenographer on temporary basis. The said order dated 04.07.2017 whereby the petitioner was directed to be treated on contract was challenged before this Court and the respondents were directed to maintain status quo qua services of the petitioner. It is thereafter that the respondents issued order dated 25.07.2017, Annexure P-9, dispensing with the services of the petitioner. Accordingly, the petitioner amended the writ petition to challenge order dated 25.07.2017 as well.

Learned counsel appearing on behalf of the petitioner herein would contend that the action of the respondents in treating the petitioner to be a contractual employee despite the fact that she was appointed against a regular post, is unsustainable. It is submitted that the Registrar, Law and Legal, Haryana Human Rights Commission, Chandigarh, is neither the appointing authority nor the disciplinary authority and no power had been delegated to him. Counsel would submit that in a similar case i.e. CWP No.1700 of 2018, titled as *Simmi Nayyar Versus Haryana Human Rights*

Commission and another, decided on 14.03.2018, this Court while considering similar orders as passed by the Registrar, Law and Legal Haryana High Rights Commission, whereby he had terminated the services of the employees of the Commission, came to hold that the Registrar (Law & Legal) has no power or authority to initiate action against the officers/officials of the Commission since he is not an authority competent to pass such orders or to take disciplinary action, which action can only be taken by the Commission as a disciplinary authority, as provided by Section 25 of the Protection of Human Rights Act, 1993.

Per contra, learned counsel appearing on behalf of the respondents would oppose the prayer made in the writ petition and would contend that the services of the petitioner were no longer required as the Commission was not functional and, therefore, the Registrar passed the orders which are under challenge.

I have heard learned counsel for the parties and have gone through the pleadings of the case.

The petitioner, who was appointed against a regular sanctioned post and had successfully completed her probation period could not be treated as a contractual employee and, therefore, her services could not have been dispensed with summarily without holding a regular inquiry. The respondents had no authority/jurisdiction to treat a regular employee who had completed her probation period successfully, to be treated as a contractual employee.

Consequently, the present writ petition is allowed and the impugned orders are set aside. The petitioner would be entitled to continue to

work on her post as a regularly appointed Senior Scale Stenographer with all consequential benefits.

12.01.2023

sanjeev

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No