

CWP-24078-2014 (O&M)

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

CWP-24078-2014

Judgment reserved on 10.05.2023

Date of decision :- 07.07.2023

Rajni Gupta

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Suman Jain, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana
for the respondents.

...

SUVIR SEHGAL, J (ORAL)

1. Instant writ petition has been filed seeking quashing of order dated 11.11.2014, Annexure P-7.
2. Facts leading to the filing of the petition are that the petitioner was appointed as a Protection Officer-cum-Child Marriage Prohibition Officer (PPO) vide memorandum dated 11.11.2008, Annexure P-1, on contract basis for a period of 3 years, which was extended for a similar period vide memorandum dated 16.11.2011, Annexure P-2. A show cause notice dated 04.08.2014, Annexure P-4, was issued to the petitioner and some other PPOs instructing them to improve their performance as per the guidelines issued by the Department from time to time for effective implementation of the

provisions of the Protection of Women from Domestic Violence Act, 2005, and Prohibition of Child Marriage Act, 2006. This was followed by notice dated 07.04.2014, Annexure P-6, proposing termination of her service. By impugned order dated 11.11.2014, Annexure P-7, petitioner was informed that it has been decided not to extend her contract w.e.f. 16.11.2014 due to poor performance.

3. Upon notice, writ petition has been contested by the respondents by taking a stand that the petitioner was a contractual employee, who had been engaged for a specific period, and her contract had not been renewed as per the terms and conditions stipulated in the appointment letter. Reference has also been made to the performance appraisal of the petitioner, which was conducted in 2014. It has been specifically stated that the decision not to renew the contract was taken as the extended period of contract had expired.

4. By making a reference to the documents appended with the petition, Mr. Suman Jain, Advocate, representing the petitioner has urged that the petitioner is one of the best performing PPOs in the State, whereas the respondents submitted a biased report with the sole objective of removing her from service. It is his argument that the impugned action taken by the respondents is a colorable exercise of power with the intention of appointing persons of their choice. By relying upon letters dated 30.07.2020 and 13.03.2023, counsel submits that the petitioner has been awarded "Outstanding" and "Very Good" reports for the appraisal periods 2019-20 and 2021-22, respectively. He has also invited the attention of the Court upon the

performance chart, to assert that the petitioner had an excellent performance during the tenure of her employment and has been incharge of two districts. He has urged that although the petitioner was a contractual employee but as her termination is based on alleged mis-conduct, which is punitive, she cannot be shown the door on the basis of the impugned order, which is stigmatic. He has placed reliance upon ***Hari Ram Maurya Versus Union of India and others, Law Finder Doc Id # 191250; Gordhan Singh Gulia Versus State of Haryana 1996 (1) RSA 243; Meenakshi Uppal Versus Society for Protection of Information Technology Chandigarh (SPIC) and others 2005 (4) SCT 151; Union Territory of Chandigarh and others Versus Central Administrative Tribunal, Chandigarh Bench and others Law Finder Doc Id # 239228; Karam Singh Versus Managing Director, National Health Mission and others Law Finder Doc Id # 1944409; Jyoti and others Versus State of Haryana and others 2021 (1) SCT 588 and Minakshi Ben Laxmanbhai Paraliya Versus State of Gujarat Law Finder Doc Id # 1943554.***

5. Per contra, learned State counsel has invited the attention of the Court to the interim order dated 05.12.2014 to submit that notice of motion was issued and the interim protection was granted to the petitioner due to the pendency of CWP-23588-2014, filed by Madhavi Lochhab, a counter-part of the petitioner. He submits that this petition was withdrawn on 16.05.2017 with liberty to file a fresh petition with better particulars. Still further, he points out that fresh petition

bearing CWP-3266-2014 was filed by Madhavi Lochhab, which has been dismissed by a co-ordinate Bench of this Court vide judgment dated 03.02.2022. Referring to the observations made by the co-ordinate Bench of this Court, he contends that the petitioner was engaged under a contract and her services had been terminated in terms of the contract, therefore, writ petition is not maintainable. By making a reference to the appraisal report, Annexure R-2, he urges that the petitioner had been performing poorly and due to non-satisfactory performance of the work, her contractual period was not extended. He submits that the appraisal report has not been challenged by the petitioner. He has also referred to the numerous complaints pending against the petitioner.

6. I have heard counsel for the parties and considered their respective submissions.

7. It cannot be disputed that the terms and conditions laid down in the appointment letter of the petitioner and that of Madhvi Lochab, which have been noticed by a co-ordinate Bench of this Court in its judgment dated 03.02.2022, are identical. After noticing the respective submissions of the counsel for the parties, this Court in Madhvi Lochab's case (supra) has held as under:-

"8. Having given my thoughtful consideration to the aforesaid rival contentions, I am of the view that on the short ground that it being a matter of contract, this Court ought not to exercise its extra-ordinary writ jurisdiction. Even if it is assumed for the sake of arguments that there

has been a violation of contractual terms, proper remedy qua the same is not a writ petition, which is decided merely on the basis of pleadings and affidavits. There being disputed questions of facts with regard to unsatisfactory work and performance of the petitioner, the same is required to be adjudicated on appreciation of evidence to be adduced by the respective parties.

9. *Be that as it may, even otherwise, it cannot be ignored that the petitioner's services were hired on contract and it is the prerogative of an employer to continue with the services of the petitioner. As regards argument that once the petitioner is acquitted in the criminal side, she cannot be made liable for the civil consequences arising out of the registration of the same very FIR. I am of the view that had it been a case that it is only the FIR which has resulted in termination of the services, perhaps the petitioner might have had a case.*

10. *Being not so, there is no room for interference by this Court since it is not the FIR alone that has resulted in the termination order, but the unsatisfactory work performance of the petitioner as noticed in the impugned order itself.*

11. *No grounds are made out to interfere. Dismissed with liberty to the petitioner to seek alternate remedy under civil law."*

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8. The case of the petitioner is on the same footing as that of Madhvi Lochab’s case (supra). In view of the above reproduced observations of this Court, writ petition is dismissed. However, liberty is granted to the petitioner to seek alternate remedy available to her in accordance with laws.
9. Pending application(s), if any, stand disposed of.

(SUVIR SEHGAL)
JUDGE

07.07.2023
Pardeep

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