

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

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**CWP-7864-2015 (O&M)
Date of decision: 16.03.2023**

Minakshi Sharma

.....Petitioner

Versus

Haryana School Shiksha Priyोजना Parishad and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sachin Gupta Ladwa, Advocate for the petitioner.

Mr. Rajesh Gaur, Addl. AG Haryana.

Mr. Pankaj Kundra, Advocate for
Mr. Deepak Sabherwal, Advocate,
for respondent No.1, 3 and 4.

HARNARESH SINGH GILL, J. (Oral)

Prayer in the present petition is for issuance of a writ in the nature of Certiorari quashing the letter dated 06.04.2015 (Annexure P-15) and relieving order dated 07.04.2015 (Annexure P-16) and directing the respondents to allow the petitioner to continue to work on the post of Accountant/Assistant in Kasturba Gandhi Balika Vidhalya, till the regular incumbent joins.

Learned counsel for the petitioner submits that applications for recruitments to the posts of Teacher, Accountant, Peon, Chowkidar and Instructor, purely on contract basis in Kasturbha Gandhi Balika Vidhalya (for short `KGBV`), were invited by respondent No.2-District Council for Child Welfare, Kaithal, vide advertisement dated 18.12.2007

(Annexure P-1); that the qualification for the post of Accountant/Assistant (Female) was Graduation with Experience of account books and the petitioner has passed M.A. and is also having the experience as Assistant Clerk; that the petitioner had applied for the post of Accountant/ Assistant (Female) and was appointed and joined as such at KGBV, Rajound, on 25.01.2008 in the pay scale of Rs. 3500/- p.m.; that after joining, the petitioner performed her duties satisfactorily and that later, on 05.12.2012, an advertisement was issued by respondent No.1- Haryana School Shiksha Priyोजना Parishad, for 36 posts each of Accountant and Teacher-cum-Warden etc., for female candidates, on contract basis to be posted in KGBV in the State of Haryana.

Learned counsel for the petitioner further submits that earlier, the petitioner had filed CWP-4682-2013 which was disposed of on 14.03.2013 (Annexure P-8) with a direction that the services of the petitioner should not be dispensed with only on the basis of proceedings to replace her by another contractual employee; that vide order dated 19.12.2014 (Annexure P-9), KGBV, Rajound was closed down and the Teachers, who were also on contract basis, were transferred to some other places in the State of Haryana on the vacant posts, whereas the services of the petitioner were terminated but the petitioner was again allowed to join at KGBV Mataur, District Kaithal, vide endorsement dated 22.12.2014 (Anneuxre P-10).

Learned counsel for the petitioner further submits that vide order dated 27.11.2014 (Annexure P-11), a purchase

Committee was constituted; that the petitioner was one of the members of the said Committee; that respondent No.3-Head Master, KGBV Mataur, had purchased some items in his own capacity without the consent of the other Committee Members; that as the petitioner was not satisfied with the said purchase, she had refused to sign the payment bill(s) and had submitted two complaints to the Deputy Commissioner, Kaithal, on 16.02.2015 and 23.02.2015; that she also wrote a letter to the Deputy Commissioner on 16.03.2015 raising all the issues regarding the purchase of items; that respondent No.3 pressurized the petitioner to withdraw the complaints and when she refused to do so, respondent No.3 in collusion with higher officers, issued a letter to the petitioner regarding termination of her services on 06.04.2015; that thereafter, the present petition was filed and a Coordinate Bench of this Court had stayed the operation of the impugned order; that the impugned termination order was a counterblast to the complaints given by the petitioner to the Deputy Commissioner, Kaithal and that the work of the Accountant still exists in the Department.

Learned counsel for respondent Nos. 1, 3 and 4 submits that the KGBV Rajound had already been closed and, therefore, termination order dated 19.12.2014 was rightly passed and she was allowed to join at KGBV Mataur; that a decision had been taken by the Committee of the Haryana School Shiksha Priyojna Parishad, in its meeting held on 22.05.2014 that no post of the Accountant in the newly formed KGBV exists, as the said job is to be performed by the SSA

Accountant only, working in the office of Block Elementary Education Officer with an additional remuneration of Rs.1000/- per month and that as per the said decision, no post of Accountant exists at KGBV Mataur and thus, the order of termination of services of the petitioner has rightly been passed.

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

Perusal of the case file would reveal that the petitioner and other similarly situated candidates were appointed in the KGBV, in the State of Haryana, under the grant-in-aid scheme of Sarv Shiksha Abhiyan on contractual basis. The earlier CWP-4682-2013 filed by the petitioner was disposed of vide order dated 14.03.2013, by a Coordinate Bench of this Court, by granting her a limited protection. Operative part of the said order, would read as under:-

“...The instant writ petition is disposed of with a direction that the services of the petitioner shall not be dispensed with only on the basis of proceeding to replace her by another contractual employee. Such limited protection is being granted to the petitioner subject to the rider that it would be open for the respondents to fill up the post in question by the process of regular recruitment in which case the petitioner shall have to make way for the regularly selected candidate. Still further, the petitioner would be continued on a contractual basis only

if there be availability of work and subject to the work and conduct of the petitioner being found satisfactory.”

It may be noticed that vide order dated 19.12.2022, a Coordinate Bench of this Court, had specifically directed the respondents to file a specific affidavit as to whether any similarly situated Accountant was working with the Department or not. In compliance thereof, affidavit dated 08.02.2023 of the Deputy Director, Haryana School Shiksha Pariyojna Prarishad, Siksha Sadan, Haryana, was filed.

A perusal of the contents thereof, would reveal that a stand has been taken by the respondents that the other Accountants earlier engaged by Mewat Model School Society and District Council for Child Welfare, Jind and Kaithal, are continuing, as these KGBVs are functional, but the KGBV in which the petitioner was closed in 2014 itself.

The petitioner was appointed as Accountant/ Assistant and she joined as such on 25.01.2008. Since then, she continued working as such and vide order dated 27.04.2015, operation of the impugned orders was stayed by a Coordinate Bench of this Court.

Considering the fact that the petitioner has been serving the department on contractual basis, for more than 15 years and the fact that at some KGBVs, similarly situated employees, are still working, the petitioner cannot be shown the door merely on the ground that KGBV, Rajound, where the

petitioner, had been initially appointed, has been closed. Moreover, on being closed, the other employees of KGBV, Rajound, were transferred to some other KGBVs. Thus, the petitioner is also entitled to be protected.

In view of the above, the present writ petition is allowed. The impugned communication dated 06.04.2015 (Annexure P-15) and relieving order dated 07.04.2015 (Annexure P-16) are hereby quashed.

(HARNARESH SINGH GILL)
JUDGE

16.03.2023

Mangal Singh

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