

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

(208)

CWP-7821-2016

Date of Decision : November 21, 2023

**Sunita Rani****.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

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

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

**HARSIMRAN SINGH SETHI J. (ORAL)**

1. The present writ petition has been filed by the petitioner challenging the orders dated 31.03.2016 (Annexure P-15) and 05.04.2016 (Annexure P-16).

2. Certain facts may be noticed for the correct appreciation of the issue in hand.

3. The petitioner was given a term appointment on the post of the Protection Officer Institutional Care on 24.08.2011 under the scheme known as ICPS Scheme. The term of appointment of the petitioner was being extended time and again keeping in view the requirement of the job and the petitioner continued working as such. While the petitioner was discharging the duties and during the subsistence of her term, the respondents passed an order dated 31.03.2016 (Annexure P-15) directing

the Deputy Commissioner, Hisar to relieve the petitioner by citing misconduct on her part and in compliance with the order dated 31.03.2016 (Annexure P-15), the petitioner was relieved from service on 05.04.2016, which orders have been impugned in the present writ petition.

4. While issuing notice of motion, the operation of the impugned order dated 05.04.2016 (Annexure P-16) has been stayed and as a result the petitioner is still continuing in service on the post in question.

5. Learned counsel for the petitioner argues that once there are allegations which are being alleged against the petitioner, a due enquiry as envisaged under the Rules governing the service should have been got conducted and mere a fact finding enquiry is not correct procedure to prove the allegations against the petitioner. Learned counsel for the petitioner submits that once the order of termination of the petitioner (Annexure P-16) is based upon the allegations and that too without adverting to the rules to prove the said allegations, the services of the petitioner could not have been terminated during the subsistence of term of the petitioner and in the present case, the procedure adopted to terminate the services of the petitioner is totally arbitrary and illegal and the impugned order is stigmatic in nature.

6. Learned State counsel, on the other hand, submits that a fact finding enquiry was got conducted in which the allegations against the petitioner were proved hence, on the basis of the said allegations, the orders have been passed. Learned State counsel further submits that the term of the petitioner for which she was appointed has already expired therefore, the petitioner cannot claim to continue in service as a matter of right whereas under the interim orders of the Court, the petitioner is still continuing in service.

7. Learned counsel for the petitioner submits that the work of the post on which the petitioner was working still exists and the non-grant of extension is only due to the allegations alleged, which have not been proved in accordance with law against the petitioner hence, as the work of the post still exists, the petitioner is entitled to continue in service.

8. I have heard learned counsel for the parties and have gone through the record with their able assistance.

9. It is matter of fact that under the interim orders of the Court, the petitioner is continuing in service. It is also a conceded position of fact that the term for which the petitioner was appointed, prior to passing of the impugned order, has also expired. That being the factual aspect, whether the petitioner's services need to be continued or not will depend upon whether the work of the post on which the petitioner is working still exists or not and whether, in the facts and circumstances of the present case, the respondents intend to continue with the petitioner or not.

10. It may be noticed that in case the respondents were to allege allegations against the petitioner, the same has to be proved in accordance with law by holding a due enquiry by giving a due opportunity to the petitioner to defend herself against the said allegations. The said procedure has not been adopted and only a fact finding report has been given on the basis of which the services of the petitioner have been terminated. Even in the order terminating the services of the petitioner, the allegations have been made which shows that the impugned order is totally stigmatic, which order cannot be passed. Hence, the impugned orders being stigmatic in nature and having been passed in contrary to the settled principle of law, is set aside.

11. However, the respondents will be at liberty to pass a fresh order in accordance with law to the effect that whether, after the expiry of the term of the petitioner, the petitioner's services are to be extended or not keeping in view the fact that whether the work on the post on which the petitioner is discharging the duties exist or not.

12. Further, till the allegations against the petitioner are proved in a manner envisaged under the Rules, the allegations alleged against the petitioner will not be taken into account unless and until the same are proved in accordance with law even for extending or rejecting the claim of the petitioner for extension in service. The same consideration will be purely whether, the work of the post exist or not. In case, the respondents persist with the allegations, they will be at liberty to hold appropriate enquiry against the petitioner and then pass appropriate order whether the petitioner is fit enough to be granted extension in service.

13. The present writ petition is disposed of with a direction to the respondents that the claim of the petitioner for extension in service will be considered in accordance with law keeping in view the requirement of work of the post ignoring the allegations. In case, the respondents want to take any action on the basis of the allegations, the respondents will be free to follow appropriate procedure and then pass an appropriate order after giving due opportunity to the petitioner qua the fitness of the petitioner to be granted extension in service.

**November 21, 2023**

*harsha*

**(HARSIMRAN SINGH SETHI)**

**JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes