

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

**CWP-22610-2020
DECIDED ON: 17.08.2023**

HARBIR SINGH

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.S. Randhawa, Advocate with
Mr. Aditya Partap, Advocate and
Ms. Tarranum Madan, Advocate
for the petitioner.

Mr. Jatinder Nagpal, Advocate
for respondent no. 3.

SANDEEP MOUDGIL, J

C.M. No. 10296 of 2021

Application is allowed as prayed for. Accordingly, Annexure P-13
and P-14 are taken on record.

CWP No. 22610-2021

1. The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for issuance of a writ in nature of certiorari seeking quashing of the office order/letter no. 1824 dated 02.07.2020 (Annexure P-1) whereby the services of the petitioner had been terminated by the Municipal Council, Hodal- respondent No. 3.
2. The short question that has arisen for adjudication before this Court is that whether a contractual employee whose services already stand terminated can seek reinstatement owing to a creation of a subsequent vacancy due to any reason whatsoever?

3. Learned counsel for the petitioner submits that the case being set up by the petitioner is that the posts of Junior Engineer have subsequently fallen vacant on account of transfer/ promotion of regular appointees. It is averred that the appointment of the petitioner has been made on contractual basis under the Outsourcing Policy, Part-II *vide* order dated 16.08.2018 (Annexure P2) issued in the favour of the petitioner.

4. Short reply has been filed by respondents No.1&2 wherein it has been averred that the order dated 16.08.2018 clearly stipulates that whenever the permanent/regular appointments/postings will be made by the Government on all the vacant posts, the services of the petitioner will be terminated immediately. The relevant extract of the aforesaid policy dated 06.04.2005 placed before this Court, are reproduced below:-

*“i) In emergent cases involving public interest, where the sanctioned vacant posts of Group C and D categories exist. **The person(s) can be engaged** by sending requisition to the Employment Exchange and by advertisement in the newspapers, purely on contract basis, **initially for a period not exceeding one year or till the regular selected candidates are appointed**”*

*ii) In doing so, it should, however, be clearly stipulated in the advertisement as well as in the offer letter that **such engagement will be purely contractual in nature and can be terminated any time without assigning any reason or prior notice and the person so engaged shall have no right to claim either regularisation or other benefit of such engagement** for any purpose in the office in which they are engaged or in any other office in the State Government. ...”*

5. Heard learned counsel for the parties and gone through the record.

6. As per the petitioner's version, one post of junior engineer got vacant when the regular appointee got transferred to Municipal Committee, Hathin vide order dated 12.11.2020 (Annexure P-10) followed by subsequent promotions/transfers. However, it has to be noted that the services of the petitioner were terminated way back on 02.07.2020 and as on 02.07.2020, the regular posts were filled by regular appointees. As such, it is the date when the services of the petitioner were terminated which is required to be taken into account. Any subsequent vacancies existing/created does not entitle the petitioner to seek re-instatement once his services already stood terminated. Even otherwise, the present is not a case where the petitioner being a contractual employee is replaced by another contractual employee.

7. The petitioner has also placed reliance on the decisions wherein benefit has been given to certain employees owing to the fact that they have rendered long and dependable services. However, in the present case, admittedly, the petitioner was appointed on 16.08.2018 and terminated on 02.07.2020, as such, the question of long and dependable service does not arise.

8. Dismissed.

17.08.2023

V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No