

**CWP-5573-2020****1****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
221****CWP-5573-2020****Date of Decision: May 14, 2024****Savita****.... Petitioner****Versus****State of Haryana and others****.... Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: - Mr. Jitender S. Chahal, Advocate
for the petitioner

Mr. Harish Rathee, Senior DAG., Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the grievance of the petitioner is that in order to avoid the benefit of the fixation of pay under the Service-Bye- Laws of the year 2018, the petitioner who was working on the post of Accounts Assistant, has again been posted as Information Assistant which act of the respondents is totally arbitrary and illegal.

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

3. The petitioner was appointed on the post of Information Assistant on a contract basis for a period of one year on 27.07.2009. Thereafter the petitioner, was made to work on the post of Accounts Assistant-cum Data Entry Operator on which post the petitioner continued working for a period of eight years till passing of the impugned order dated 29.05.2019 (Annexure P-11), vide which the petitioner was again posted as Information Assistant from the post of the Account Assistant.

4. Learned counsel for the petitioner argues that as per the Service- Bye Laws which have been framed by the respondents in the year 2018, in case any



employee has worked on a particular post for a period of more than five years, he/she is entitled for the remuneration to be converted into emolument i.e basic pay plus dearness allowance and in order to avoid the grant of the said benefit, after a period of eight years, the petitioner has again been posted from the post of Accounts Assistant to that of Information Assistant. Hence, the orders dated 29.05.2019, 31.05.2019 and 31.05.2019 (P-11 to P-13 respectively) are liable to be set aside and the petitioner need to be treated as a Accounts Assistant for all intents and purposes in order to grant her the benefit of emoluments as envisaged under the Service-Bye- Laws of the year 2018.

5. Learned State counsel on the other hand, submits that once the initial appointment of the petitioner was made on the post of Information Assistant, merely that she has worked on the post of Accounts Assistant, the said benefit cannot be granted to her.

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

7. It may be noticed that though the petitioner was initially appointed as Information Assistant but the respondent allowed her to work on the post of Accounts Assistant for a period of eight years starting from the year 2010 onwards till the impugned order dated 29.05.2019 (Annexure P-11) was passed. Once the respondents allowed the petitioner to work on the post of Accounts Assistant by giving her extension on the said post, which order has already been brought on record, it cannot be said that the petitioner was unauthorizedly working on the post of Accounts Assistant so as to claim the benefit of emoluments as envisaged under the Service-Bye-Laws, 2018. Again posting the petitioner as Information Assistant and thereafter granting her the extension of the said post is only to



avoid the grant of said benefit which the petitioner has become eligible to get under the Service-Bye-Laws, 2018.

8. Even if the petitioner was initially appointed as Information Assistant but the respondent made her to work on the post of Accounts Assistant the respondent cannot turn around to say that her appointment was never made on the post of Accounts Assistant. The grant of extension on the post of Accounts Assistant by the respondent means that the respondent treated the petitioner as Accounts Assistant for all intents and purposes. Hence, the orders dated 29.05.2019, 31.05.2019 and 31.05.2019 (Annexure P-11 to P-13 respectively) by which, the petitioner was posted from the post of Accounts Assistant to that of Information Assistant is totally arbitrary and illegal and has been issued to avoid the grant of said benefit as envisaged under the Service-Bye-Laws of the year 2018 and hence are consequently set aside. The present petition is allowed and the petitioner be treated on the post of Accounts Assistant for all intents and purposes even for the period she has worked on the post of Information Assistant after passing of the impugned order and be considered for the grant of benefit of emoluments as envisaged under the 2018 Service-Bye-Laws.

9. Let appropriate order with regard to the grant of benefit of emoluments as envisaged Service-Bye-Laws, 2018 be passed by the respondents within a period of eight weeks from the date of receipt of copy of this order and whatever the benefit comes to the share of the petitioner be also released to her within a further period of four months.

May 14, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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