

**CWP-10728-2024****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(119)****CWP-10728-2024****Date of Decision : May 09, 2024****Rajinder Kumar****.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Sunil K. Nehra, Advocate, with
Mr. Suryaveer Singh Surjewala, Advocate and
Mr. Rahil Mahajan, Advocate, for the petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 16.01.2024 (Annexure P-5) by which, the services of the petitioner have been terminated by the respondents.

2. Learned counsel for the petitioner argues that once, the petitioner was given extension in service by the respondents upto 31.12.2024 (Annexure P-3), the petitioner should have been allowed to continue in service upto the said date and his extension cannot be curtailed in any manner.

3. Notice of motion.

4. Mr. Harish Nain, learned Assistant Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondents.

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5. Learned counsel for the respondents submits that the extension in service was given to the petitioner upto 31.12.2024 (Annexure P-3) with the condition that in case any regular appointment is made, the said extension will come to an end, which is clear from the order itself, copy of which has been appended with this petition as Annexure P-3 and in the present case, the regular incumbent has joined at the place of the petitioner and that is why, the extension of the petitioner was curtailed.

6. Learned counsel for the petitioner submits that no regular appointment has been made but the regular incumbent from the other Department has been transferred at the placing of posting, which cannot curtail the appointment of the petitioner.

7. Learned counsel for the petitioner further submits that no reason has been given by the Department concerned in the order dated 16.01.2024 (Annexure P-5) as to why, the services of the petitioner are being terminated.

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

9. A bare perusal of the extension in service given to the petitioner, copy of which has been appended as Annexure P-3, the same is conditional one to the effect that till the regular appointment is made on such post.

10. Learned counsel for the respondents has submitted that a regular incumbent had joined at the place of the petitioner whereas, the argument of learned counsel for the petitioner is that the incumbent should have joined by way of regular selection afresh and not by transferring any

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regular appointee already in service.

11. It may be noticed that no such right exist with the petitioner to claim that his services can only be dispensed with on the regular selection made afresh and not by transferring any regular incumbent already in service. The petitioner is only working as stop gap arrangement in the absence of any regular incumbent available hence whether already existing regular incumbent joined or a freshly recruited incumbent joined on the post is irrelevant. Once the regular incumbent has joined at the place of the petitioner, he cannot say that the post has not been filled up through regular incumbent.

12. With regard to the argument of the learned counsel for the petitioner that no reason has been given in the impugned order dated 16.01.2024 (Annexure P-5), the same is also not correct. As per the impugned order, the services of the petitioner have been terminated keeping in view the instructions of the Government dated 19.12.2023 (Annexure P-4). The clause 3 of the said instructions is as under:-

“ 3. It is further clarified that services of employees, who chose not to be ported to HKRNL consequent upon instructions dated 30th December, 2022, will be the first to be terminated in case regular appointment is made on such posts.”

13. A bare perusal of the above would show that it has been mentioned that in case any regular appointment is made on such post, the candidates who have not accepted to be ported to Haryana Kaushal Rozgar Nigam, should be terminated. It is a conceded fact that the petitioner has not consented to be ported to Haryana Kaushal Rozgar Nigam hence, it cannot be said that the reason for termination has not been mentioned in the impugned order.

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14. Learned counsel for the petitioner further submits that as per the contractual appointment given to the petitioner, the petitioner was to continue for a period of one year or till the recommendation from the HSSC is received.

15. It may be noticed that once a regular incumbent has joined, whether already working or recommended from HSSC, the petitioner cannot raise any grievance so as to claim that the clause 3 of the appointment order has been violated.

16. At this stage, learned counsel for the petitioner submits that the work of the post on which the petitioner is working, exist hence, the respondents be directed to consider the claim of any such post where the petitioner can be allowed to continue in service.

17. Learned counsel for the respondents submits that in case the petitioner is of the view that the work of the post of Attendant exists and keeping in view the number of posts available, the petitioner can make appropriate representation with the authorities concerned, which will be considered in accordance with law and appropriate order will be passed by the concerned authorities within a period of eight weeks of the receipt of copy of this order.

18. With the liberty given hereinbefore, no ground is made out for any interference by this Court in the present case.

19. Dismissed.

May 09, 2024*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

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