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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-30144-2022
Date of Decision: 08.02.2024

Rekha Dahiya

..... Petitioner

Versus

State of Haryana & ors.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Anil Ghangas, Advocate,
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Rajesh Gaur, Advocate,
for respondents No.1 to 4.

JASGURPREET SINGH PURI, J. (ORAL)

1. Present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of mandamus for directing the respondents not to cover the services of the petitioner under letter dated 28.09.2021 (Annexure P-15) and letter dated 09.09.2022 (Annexure P-16) as the same are applicable only on Group C and Group D employees.

2. Learned counsel for the petitioner submits that there are four prayers made in the main petition mentioned below:-

First prayer of the petitioner is that she should not be covered in Group C & D category of employees regarding which letters have been issued by the Government dated 28.09.2021 (Annexure P-15) and dated 09.09.2022 (Annexure P-16) for the purpose of termination of services of Group C & D

employees, who are recorded in Part II of the Outsourcing Policy.

Second prayer is with regard to seeking service of one month's notice with justified reasoning in case the respondents are going to dispense with the services of the petitioner.

Third prayer is for seeking a writ in the nature of mandamus directing the respondents to not replace the petitioner with any other contractual employee by changing the nomenclature of the post.

Fourth prayer is to let the petitioner continue till the work subsists as per the work and nature of the duties.

On the other hand, learned counsel appearing on behalf of the Board-respondents No.3 & 4 has made submissions pertaining to all the four prayers made by the petitioner. So far as the first prayer is concerned, he submitted that the services of the petitioner is on contractual basis and there are no service rules pertaining to the respondent-Board and therefore, no such categorization can be done. He further submits that even otherwise also by virtue of letter dated 09.09.2022 (Annexure P-16), which was so decided by the Government for continuation of the Group C & D services and even now another letter dated 30.12.2022 (Annexure R-2) has been issued by the Government of Haryana that the extension in engagement of employees appointed under Outsourcing Policy Part II is given for one year for those who do not accept the option of being ported to HKRN or who are working on Group A or Group B posts. He submits that by virtue of instruction of the Government, the tenure of the contractual employees in the State of Haryana has since been extended irrespective of the Group A, B, C or D and therefore, the prayer of the petitioner is superficial prayer.

So far as 2nd, 3rd and 4th prayers are concerned, the same are overlapping prayers and do not sustain in view of the fact that now vide Annexure R-3, the services of the petitioner were extended w.e.f. 28.09.2021 to 31.12.2022 or till the appointment of regular incumbent whichever is earlier, subject to outcome of the petition, the order of which has been passed by the Government of Haryana. It is also so stated in the aforesaid order that the services can be dispensed with at any time without showing any reason and without issuing one month's prior notice. Thereafter, now a fresh order has been passed by the Principal Secretary to Government of Haryana, Labour Department on 02.02.2024 and photocopy of the same has been supplied to the Court today and also to the learned counsel for the petitioner.

The aforesaid order, which has been supplied by the learned counsel for the respondent-State is hereby taken on record as Mark 'X'. Learned counsel submitted that by virtue of the aforesaid letter it has been so ordered that in continuation of the earlier orders, the services of the petitioner are extended for six months w.e.f. 01.01.2024 to 30.06.2024 or till the joining of the regular incumbent whichever is earlier, subject to the outcome of further orders to be passed by this Court in the present petition. However, the clause pertaining to grant of one month's notice without assigning any reason is not stated in the subsequent letter dated 02.02.2024. It is submitted by the learned counsel that in this way once a specific order has been passed by the Principal Secretary, Government of Haryana, Labour Department, the services of the petitioner are extended till 30.06.2024 or till the joining of the regular incumbent whichever is earlier, then rather all the three prayers of the petitioner become infructuous since the relief has already been granted to the petitioner.

I have heard learned counsel for the parties.

Learned counsel appearing for the Board has supplied copy of order dated 02.02.2024 (Mark 'X'), which is reproduced as under:-

“In continuation to order No.HBOCWWB/2023/6586-6589 dated 19.07.2023, the term of services of Smt. Rekha Dahiya, Assistant Welfare Officer (Contractual) is hereby extended for six months i.e. 01.01.2024 to 30.06.2024 or till the joining of regular incumbent, whichever is earlier, subject to outcome/further orders to be passed by the Hon'ble Punjab & Haryana High Court in CWP No.30144 of 2022.”

The first prayer of the petitioner in the present case is that the petitioner should not be covered in Group C and D employees so that he gets excluded from the operation of Annexures P-15 and P-16. However, the aforesaid prayer in fact becomes irrelevant and insignificant in view of the latest orders, which has been passed by the Principal Secretary as aforesaid on 02.02.2024. Similarly, all the three other prayers also are rendered infructuous in view of the aforesaid letter passed by the Principal Secretary to Government of Haryana on 02.02.2024.

So far as submission of learned counsel for the petitioner made during the course of arguments that services of the petitioner now in future also may be dispensed with even before expiry of the aforesaid period on the basis of any frivolous complaint, which has been done in the present case as well, this Court is of the view that the submission made by learned counsel for the petitioner is merely on the basis of apprehension. In case, any action is to be taken against any employee by the time he is serving either on the regular or contractual basis then due procedure has to be followed and there is nothing on the record at this point of time to show any kind of apprehension that no such procedure will be followed by the Board and it is only an apprehension of the petitioner in this regard.

In view of the aforesaid facts and circumstances and particularly in view of the latest orders passed by the Principal Secretary dated 02.02.2024 (Mark ‘X’), nothing would survive in the present petition and consequently, the same is disposed of.

08.02.2024
monika

(JASGURPREET SINGH PURI)
JUDGE

- 1. Whether speaking/reasoned: Yes/No
- 2. Whether reportable: Yes/No