

**yN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No. 25703-2016

Date of decision : 23.01.2019

Gargi

.....Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ravinder Malik, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana

Mr. Deepak Sabarwal, Advocate
for respondent No. 2 and 3

RITU BAHRI, J. (Oral)

Petitioner is seeking quashing of impugned order dated 28.11.2016 (P-16) and appointment of respondent No. 4 and appointment of respondent No. 4 made in pursuance of noting dated 26.10.2016 (P-17).

This Court on 13.12.2016 passed following order:-

“Argues that initial appointment as Law Associate in HUDA was for a period of 6 months effective from 18.2.2015 and further extensions could be granted depending on performance of work as per order of appointment. Points out to Clauses 5 & 6 of the Engagement Memo dated 4.3.2015 (Annex P-4) that employment can be terminated or revoked at any time unilaterally without assigning any reason and without notice by HUDA, but the converse is not true in Clause 6 as petitioner cannot leave without notice. Clause 5 is laconic, one sided and open to abuse. By the impugned order dated 28.11.2016 (Annex P-16), the petitioner's contract has been terminated with immediate effect. Learned counsel submits that there is no blemish in the performance of the petitioner and her work and conduct and in fact she has been praised for her independent work in land acquisition cases and for assisting one Mukesh ADA.

After terminating the services of the petitioner, the respondent-HUDA has engaged one VK Singla a retired ADA, who had “shown interest” in the engagement to serve HUDA on contract basis to do the same thing as fell in the petitioner's lot. It is not the case that the petitioner has not shown interest in her work. From here, it is argued that the petitioner could not have been replaced by a similar arrangement and cites the law in Hargurpartap Singh v. State of Punjab & ors., (2007) 13 SCC 292. In all the 21 posts of ADAs sanctioned in HUDA only 10 are presently working and there are sufficient vacancies not to abruptly use the axe of termination. In such circumstances, the principles of natural justice demands that advance notice deserved to be given and the petitioner informing the reasons why her services were being abruptly terminated. That procedure if followed would have accounted for fairness in-action which is pious duty of the administrator/appointing authority whenever right to serve and right to livelihood are involved and adverse orders passed affecting citizens.

Notice of motion, returnable by 14.2.2017.

Notice re: stay as well.

In the meanwhile, the operation of the impugned office order dated 28.11.2016 (Annex P-16) shall remain stayed till further orders.”

On notice of this petition, a written statement has been filed on behalf of respondent No. 2 and 3 admitting the fact that the petitioner was engaged on contractual basis as Law Associate with fixed remuneration for a period of six months w.e.f 18.02.2015, vide appointment letter dated 04.03.2015 (P-4) and in the appointment letter, it has been clearly mentioned that the services can be terminated or revoked any time without assigning any reason. It has been further denied that the services of respondent No. 4 have been hired in place of the petitioner. Respondent No. 4 was engaged on contractual basis keeping in view of his services in the department on the post of ADA and in view of the fact that Mukesh, ADA who was posted in the office of Chief

Administrator HUDA, Panchkula had applied for a leave and as he was overloaded and working in the office of Administrator, HUD Panchkula, besides Estate Office, HUD, Panchkula as also after cases of urban estates and performing the additional duties. Respondent No. 4 was appointed prior to the termination of the petitioner. It was admitted that extension of 06 months time was given to the petitioner w.e.f 18.02.2016 to 16.08.2016. Further additional duty to attend the A.G office and High Courts was given to the petitioner on 11.01.2016 (P-11) and she was given the duty to look after the work of section 24 (2) of LARR Act i.e she was attending the representations made by the land owners for release of their land under LARR Act.

The short point for consideration before this Court would be whether the services of the petitioner can be terminated by the respondents-without assigning any reason, despite the fact that he was working to the satisfaction of the respondents.

It is not the case of the respondents that there is no work in the department and no reason has been given for terminating the service of the petitioner

The writ petition is allowed and order dated 28.11.2016 (P-16) is set aside and the petitioners shall continue to work and shall not be relieved by another set of contractual employees, in view of judgment of Hon'ble the Supreme Court in a case of *Hargurpratap Singh vs. State of Punjab and others, 2007 (13) SCC 292*, subject to the condition that the work and conduct is satisfactory. However, it is made clear that the petitioner can be replaced on joining of regularly selected candidate.

January 23, 2019
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>