

(2020) 09 SHI CK 0096

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1255 Of 2020

Ex. Sub/Clk Trilok Chand

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 02-09-2020

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2020) 09 SHI CK 0096

Hon'ble Judges : L. Narayana Swamy, CJ;Anoop Chitkara, J

Bench : Division Bench

Advocate : Ajay Sharma, Amit Jamwal, Rajesh Kumar Sharma

Final Decision : Dismissed

Judgement

L. Narayana Swamy, CJ

1. The petitioner, who is an Ex-serviceman, has come up before this Court, seeking quashing of order dated 25.02.2020 (Annexure P -3), (hereinafter referred to as 'the impugned order'), vide which the contractual services of the petitioner were terminated.

2. It is alleged in the petition that Ex-Servicemen Contributory Health Scheme (for short 'ECHS') was launched by respondent No. 1 with an aim to provide allopathic Medicare to Ex-Servicemen pensioners and their dependents through a network of ECHS Polyclinics, Service Medical Facilities and Civil Empanelled/Govt. Hospitals, spread across the country.

3. The case of the petitioner is that he applied for the post of Clerk under the aforesaid Scheme and after the interview, he was appointed as such on contractual basis on a fixed monthly honorarium of Rs.8,000/- by a duly constituted Selection Committee, on the terms and conditions which were stipulated after his joining on a non-judicial paper. Pursuant to his appointment, the petitioner joined his duties at ECHS Polyclinic Type 'A' Yol Cantt. District Kangra, H.P. As per para-4 of the appointment letter (Annexure P-2), the

petitioner was employed on period contract, initially for 11 months and 25 days, which could be renewed up to 3 years of service or attaining the age of 60 years, whichever is earlier. The petitioner has completed 3 years of service in terms of the appointment letter, however, he has not attained the age of 60 years. Now, the respondents vide impugned order dated 25. 02.2020 (Annexure P-3) has terminated the services of the petitioner. It has been mentioned in the impugned termination order that since the petitioner is not meeting the requisite age criteria for the said post, his services are no longer required.

4. Learned Senior Counsel for the petitioner submits that since letter dated 1st January, 2020 (Annexure P-5) is silent about the age criteria, the petitioner could have been continued in service till his attaining the age of 60 years. He further submits that the impugned action of the respondents in terminating the services of the petitioner is contrary to law and in violation of Article 14 of the Constitution of India.

5. On the other hand, the respondents have filed reply, but the same is not on record. However, the learned Assistant Solicitor General of India, on the basis of the reply, submits that the petitioner has no right to claim the continuation in service. He further submits that his appointment was made on contractual basis initially for 11 months and 25 days, which could be renewed upto 3 years of service or upto the age of 60 years, whichever is earlier. The petitioner has completed three years of service and even after completion of three years of service, he was allowed to continue in service. As such, the petition is liable to be dismissed.

6. We have heard learned Counsel for the parties and have also perused the entire record minutely.

7. The petitioner is an Ex-serviceman retired from Defence Department. He was appointed as a Clerk on contractual basis on a fixed monthly honorarium of Rs.8,000/- under the ECHS Scheme, by a duly constituted Selection Committee. He was employed on period contract initially for 11 months and 25 days, which could be renewed upto 3 years of service or up to the age of 60 years. When a contract was entered into between the parties to the effect that the petitioner shall be employed on periodic contract for a period of three of years and he has completed three years of service, there is no scope for him to claim continuation in service after completion of three years of service, until and unless a new contract is entered into inter-se the parties. It is an admitted fact that that the petitioner has been allowed to continue in service even after the completion of three years of service. As per para-4 of the appointment letter (Annexure P-2), he was employed on period contract, initially for 11 months and 25 days, which could be renewed up to 3 years of service or up to the age of 60 years, whichever is earlier and the petitioner has joined the service after accepting all the terms and conditions stipulated therein. After completion of three years' of service, the services of the petitioner were required to be terminated automatically. Since, the appointment of the petitioner was made on contract

basis, he has no right to claim the continuation in service after the completion of the required service. Thus, we find no illegality in the termination order dated 25th February, 2020.

8. In view of the above, there is no merit in the writ petition. Hence, the same is dismissed alongwith pending application(s), if any.