
(2020) 10 SHI CK 0320
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 5558 Of 2019

Seema Rani

APPELLANT

Vs

State Of Himachal Pradesh And Ors

RESPONDENT

Date of Decision : 07-10-2020

Acts Referred:

Citation : (2020) 10 SHI CK 0320

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Sudhir Bhatnagar, Arvind Sharma

Final Decision : Dismissed

Judgement

Sandeep Sharma, J

1. Despite service, none has come present on behalf of the petitioner. On 3.9.2020, Mr. Manohar Lal Sharma, Advocate, who was representing the petitioner in the Erstwhile HP State Administrative Tribunal, informed this Court that since petitioner has taken away the brief from him, he is unable to appear on her behalf and court notice may be issued to the petitioner. Having recorded aforesaid statement made by the learned counsel, this Court directed the Registry to issue court notices to the petitioner returnable for today's date. It was specifically directed that the Registry while issuing notice to the petitioner would specifically advise her to either come present in the Court or through counsel on the given date, failing which court would have no option but to proceed with the matter on the basis of material available on record.

2. Petitioner was appointed as Computer Operator on contract basis by District E-Governance Society Una on 27.2.2006 as is evident from appointment letter dated 25.2.2006 (A-1) and she continued to serve in that capacity with respondent No.3 in License Branch upto 31.12.2009. Vide order dated 1.1.2020, the petitioner was ordered to be transferred to Tehsildar Office, Land Records for computerization work, where she served upto 17.3.2013. Vide order dated

14.3.2013, the petitioner was transferred to License Branch of respondent No.3 where she worked upto 2.1.2015 as is evident from Annexures A-3 and A-4. Contract agreement inter-se petitioner and respondent No.3 was executed w.e.f. 1.1.2015 to 31.12.2015 (A-5), perusal whereof clearly reveals that petitioner was given employment on contract basis in the office of Sub Divisional Officer Amb, District Una, by E-Governance Society Una, District Una, for a period of one year. It stands duly recorded in the aforesaid agreement that services rendered by the petitioner in terms of contract would not give her any right to claim regularization/absorption in the department. Vide order dated 8.7.2015, services of the petitioner were terminated with immediate effect and as such, petitioner was compelled to approach the Erstwhile HP State Administrative Tribunal by way of OA No. 2573 of 2015, which after transfer to this Court stands re-registered as CWPOA No. 5558 of 2019, praying therein for following main reliefs:

""i) That the impugned office order dated 8.7.2015, Annexure A-8, issued by the respondent No.2 may kindly be quashed and set-aside.

ii) That the respondents No. 1 to 3 may kindly be directed to allow the applicant to continue as Computer Operator."

3. Having heard learned counsel for the parties and perused material available on record, this Court finds that petitioner was appointed as a Computer Operator on contract basis in the office of respondent No.3 for a period of one year i.e. w.e.f. 1.1.2015 to 31.12.2015 by the E-governance Society, but her services came to be terminated during the subsistence of the aforesaid contract on account of complaint received in the office of Director General of Police, CID, Himachal Pradesh with regard to misconduct of the petitioner. Director General of Police, CID, HP, vide letter dated 2.7.2015, intimated the Deputy Commissioner-cum-Chairman of District E-Governance Society, Una that the conduct of the petitioner Smt. Seema was not good with general public. On the basis of aforesaid complaint, respondent No.2 got the inquiry conducted through respondent No.3, who, in his inquiry found allegations leveled against the petitioner to be correct and as such, her services were terminated.

4. Precisely, the grouse of the petitioner is that before taking disciplinary action against her, no opportunity of being heard was afforded to her. Reply filed on behalf of the respondents reveals that petitioner came to be removed from her service on the basis of her improper conduct as she was found to be indulging in fake driving licence scam, one more person namely Ankush Kumar belonging to the office of respondent No.3 was also found involved and was also removed from service.

5. Careful perusal of para 8 of the contract agreement clearly reveals that continuation of the service of the petitioner was subject to good moral conduct, but since in the case at hand, petitioner during subsistence/currency of the contract was found to be involved in fake driving license scam, no fault, if any, can be found with the action of the respondents in as much as her termination

from the service is concerned. Otherwise also, there was no requirement as such to serve the petitioner with the notice prior to her termination because as per clause 8 of the contract agreement, continuation of petitioner was subject to good moral conduct. Leaving everything aside, petitioner never came to be appointed by the Government, rather she was appointee of society and as such, present petition is otherwise not maintainable.

6. Consequently, in view of the above, present petition is dismissed being devoid of any merits.