



IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Sr. No.213

CWP-29101-2022 (O&M)  
Date of Decision: 05.07.2024

Ritu

.... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Anurag Goyal, Advocate for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

Mr. Harmanjot Singh Gill, Advocate for respondent no.3 to 5.

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**TRIBHUVAN DAHIYA, J. (ORAL)**

The petition has been filed seeking a writ of *certiorari* quashing the order dated 14.11.2022, Annexure P-15, whereby the petitioner has been refused extension as Junior Physiotherapist and her contract has been terminated/withdrawn with effect from 20.10.2022. Further, a writ of *mandamus* has been sought directing the respondents to permit her to continue working on the post keeping in view the existing workload.

2. Briefly, as per facts apparent on record, the third respondent/University issued a circular, dated 30.12.2011, Annexure P-1, for walk-in interview for one vacant post of Junior Physiotherapist in Orthopaedics Department on contract basis for a period of six months or till the regular incumbent joins, whichever was earlier. The petitioner applied for the same along with other candidates; pursuant to the interview and due selection process, she was recommended for appointment by the Establishment Committee, as is apparent from the minutes of its proceeding, dated 30.12.2011, Annexure P-2. Thereupon, she was issued the letter of appointment



for the post, dated 30.01.2012, Annexure P-3, on a consolidated salary of ₹12,500 per month. As per the terms contained therein, the appointment was purely on contract basis for a period of six months or till the regular incumbent joined, whichever was earlier, and terminable on twenty-four hours' notice on either side. She accepted the offer and joined service by submitting joining report, dated 08.02.2012, Annexure P-4. The University, however, kept on extending her contract of appointment from time to time and she continued in service for over a decade till passing of the impugned order, as is apparent from experience certificate issued by the Director, dated 14.10.2019, Annexure P-6.

2.1. Since the petitioner had been appointed on contract basis against a sanctioned post for a limited period or till joining of a regular incumbent, the University issued an advertisement no.01 of 2014, Annexure P-7, inviting applications up to 21.02.2014, among others, for two posts of Junior Physiotherapists. The petitioner being eligible applied for the same and took the written test as well, but before the selection could be finalised, the advertisement was withdrawn. The post was again advertised by the University, vide advertisement no.6 of 2016, Annexure P-8; the petitioner again applied for the same and appeared in the written test. This advertisement was also withdrawn before finalising the selection. Yet again, for the third time, the University issued advertisement no.7 of 2018 for the same post, for which the petitioner again applied and took the written test. This time too, it was withdrawn before any appointment could be made. As on date, the post petitioner is working against, has not been filled by way of regular selection.

2.2. As the petitioner had been duly selected and was working on a consolidated salary since her initial appointment on 08.02.2012, she made a representation to the Director, dated 20.11.2017, Annexure P-9, seeking minimum of regular pay scale meant for the post on the principle of 'equal pay for equal work'. A committee was constituted by the Vice Chancellor to look into the matter, which opined her pay should be fixed in the minimum of pay



scale, i.e., ₹35,400 with effect from the date of implementation of the Seventh Pay Commission recommendations, 01.01.2016; as is apparent from the minutes of the committee meeting held on 22.07.2021, Annexure P-11. However, the recommendation was not acted upon, and her remuneration was not enhanced in line therewith.

2.3. As the petitioner's extended term of contract was to expire on 20.10.2022, she requested for its extension to the Director vide letter dated 04.10.2022, Annexure P-12. The same was duly forwarded by the Chief Physiotherapist to the fifth respondent/Head of the Department with the comments, *'her work and conduct during this tenure is good and services of this post are required in the physiotherapy unit for patient care in the deptt.'* The fifth respondent, in its comments, however, recorded, *'it has already been requested that post may please be filled upon regular basis. Giving repeated extensions on contract basis is neither in the interest of employee nor in the interest of institution'*. When the case for extension of contract was placed before the Vice Chancellor, he recorded in the file on 14.10.2022, *'Regular appointments are currently not being done as per direction of the Govt. HOD may comment if the service of Jr. physiotherapist are required for the smooth functioning of the department. In the meantime we are pursuing with the Govt. for fill up all post on regular basis'*. In response, the fifth respondent conveyed on 02.11.2022, that his remarks were as before; he recorded, *'My remarks are as before. It is not desirable to give extension for unlimited number and indefinite period as is happening in this case. The post may be filled upon regular basis'*.

2.4. In these circumstances, the impugned order, dated 14.11.2022, was passed conveying to the petitioner that it had been decided not to grant further extension, and her contract stood terminated/withdrawn with effect from 20.10.2022. It was stayed by this Court vide interim order dated 16.12.2022.



3. Learned counsel for the petitioner has contended that termination of the petitioner's contract vide the impugned order is *mala fide*. She has been working against a sanctioned post since February 2012, and her work and conduct has been good, as assessed by her immediate superior, Chief Physiotherapist, vide his comments dated 04.10.2022. The respondents are in need of a regular incumbent which is apparent from the fact that they have advertised the post for the purpose three times. Therefore, there is no justification in not granting the extension of contract, and she has a right to continue working till a regular incumbent joins the post.

4. *Per contra*, learned counsel for the University contends that the University cannot be forced to extend the petitioner's contract of service. The impugned order was passed in terms of clause 3 of the appointment letter/contract of appointment, as there was no need for a contract appointee in the Department. Although for about ten years the University had been extending the term of petitioner's service contract as it so desired, but this cannot give her any right to seek an extension. In support of the contention, he has relied upon a judgment dated 12.04.2023, rendered by this Court in CWP No.26616 of 2021, titled *Pawan Kumar Pundir v. State of Haryana and others*.

5. Arguments advanced by learned counsel for the parties have been considered.

6. Undisputedly, the petitioner was appointed as Junior Physiotherapist on contract basis for a period of six months or till the regular incumbent joined the post. The appointment was made on the basis of recommendations of a duly constituted selection committee. She joined the post on 08.02.2012, and has been continuously working ever since; her contract of service has been extended by the University from time to time by giving various extensions, as is apparent from experience certificate dated 14.10.2019. Meanwhile, the University has attempted to fill the post by regular selection and issued advertisements for the purpose thrice over, but no selection could be



made as the advertisements were withdrawn. The petitioner requested for grant of minimum pay scale meant for the post she had been working against. Despite a favourable recommendation by the committee constituted for the purpose dated 22.07.2021, it was not granted; not only that, her request for extension of contract, which was going to expire on 20.10.2022, was also rejected vide impugned order, dated 14.11.2022, despite her work and conduct having been assessed as good by her immediate superior/Chief Physiotherapist, who also recorded that her services were required in the Department for patient care. Whereas, the Head of Department requested that the post be filled on regular basis, as repeated extensions of contract for unlimited period were neither in the interest of the employee nor that of the Institution. The Vice Chancellor, however, in his comments on 14.10.2022, clearly stated that regular appointments could not be made due to the government's directive, and the Head of Department was asked to clarify whether services of Junior Physiotherapist were required for smooth functioning of the Department. In response, he did not state that her services were not required; instead, only commented that extension for indefinite period was not desirable and the post be filled on regular basis.

7. Apparently, there is no opinion by the Head of Department that the petitioner's service in the Department is not required, nor is there any dispute regarding the fact that her work and conduct during service has been good, and her services are required for patient care. Also, the University administration wants to fill the post by making regular appointment which could not be done due to directives of the government. The Head of Department also wants the post to be filled on regular basis. This underscores the need of an incumbent to man the sanctioned post of Physiotherapist. The petitioner has been working against this post satisfactorily since February 2012, as her tenure has been extended from time to time allowing her to continue till a regularly selected person joins. It is not the University's stand either that the



post has now been abolished, or that they would not replace the petitioner with another contract appointee. In the totality of facts, it cannot be said that the petitioner's services as a contractual Junior Physiotherapist are not needed. Accordingly, there was no justification in passing the impugned order refusing extension of service contract, nor has any been provided. The inescapable conclusion is, the impugned order terminating the contract is an arbitrary exercise of power for extraneous reasons. It could not have been terminated, and the petitioner has a right to continue in service till joining of a regular incumbent.

8. The argument advanced by learned counsel for the University that the petitioner has no right to seek extension of contract which could only be extended as per University's wish and for so long as it desired, is cantankerous and shows high-handedness and autocratic attitude which is deprecated. The University being a statutory body, its officers are bound to act in a fair and reasonable manner in accordance with law, and cannot be allowed to work arbitrarily and indiscriminately to terminate a contract of service after the employee has been allowed to work on the post for about ten years, whose work and conduct is also good and services are required. Reliance on clause 3 of the terms of appointment stipulating that the contract, unless extended, shall be terminated on its expiry, is also misplaced. It is unconscionable for the University to invoke the clause at will, ignoring the long service rendered by the petitioner, as also other facts and circumstances of the case; hence impermissible.

9. Further, the reliance upon the judgment in *Pawan Kumar Pundir* case (*supra*) is misplaced. In the facts of that case, the department had constituted a committee to evaluate the petitioner's performance and based upon its recommendation took a conscious decision not to renew the contract of service. The facts of the case at hand are distinct, as the respondents have



arbitrarily terminated the contract despite the petitioner's performance being good and her services required, as already discussed.

10. In view of the aforesaid discussion, the petition is allowed. The impugned order, dated 14.11.2022, is set aside and the University is directed to allow the petitioner to work on contract basis as per terms of her appointment till joining of a regularly selected incumbent, subject to her work and conduct being satisfactory.

11. Since the petitioner's contract of service has been arbitrarily terminated for extraneous reasons forcing her into this litigation, she is held entitled to costs of litigation which are quantified as Rs.75,000 (Rupees seventy five thousand), to be paid by the third and fourth respondent within two weeks of receiving a certified copy of the order. Proof of payment of costs be placed on the case file within four weeks therefrom.

12. Pending miscellaneous applications, if any, stand disposed of as having been rendered infructuous.

**(TRIBHUVAN DAHIYA)**  
**JUDGE**

05.07.2024  
Maninder

Whether speaking/reasoned : Yes  
Whether reportable : Yes