

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No.22341 of 2012
Date of Decision: July 24, 2015

Pawan Kumar

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.S.K.Verma, Advocate,
for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana,
for the State.

AMIT RAWAL, J. (Oral)

The petitioner has knocked the door of this Court for issuance of a writ in the nature of certiorari and mandamus for quashing the action of the respondents, whereby the respondents wanted to displace/replace the petitioner with another set of contractual employee.

Mr.S.K.Verma, learned counsel appearing on behalf of the petitioner submits that the petitioner was appointed as Data Entry Operator on 11.7.2011 on contract basis for a period of six months, which was extended twice and the last extension was on 2.8.2012 (Annexure P-4). However, the petitioner having apprehension that he would be replaced with

another set of employee, approached this Court by taking the aid of ratio decidendi culled out by the Hon'ble Supreme Court in Hargurpratap Singh Versus State of Punjab and others, 2008(2) SCC 618. He has also pointed out that during the pendency of the writ petition, the respondents have caused an advertisement and appointed Data Entry Operators on contractual basis and dispensed with the services of the petitioner on 30.11.2012, thus, the action of the respondents is not only fallacious but arbitrary.

Mr.Hitesh Pandit, learned Additional Advocate General, Haryana appearing on behalf of the State submits that the petitioner has been involved in two FIRs, i.e., FIR No.707 dated 7.11.2012, under Sections 457 and 380 IPC at Police Station, City Jind and FIR No.56 dated 18.1.2013, Police Station, City Jind under the same provisions of the Indian Penal Code and, therefore, the conduct of the petitioner was not satisfactory and, thus, he is not entitled to be retained in service on contract basis. It has further been submitted that the services of the petitioner have not been terminated, rather the petitioner, on his own, left the job and while leaving the job, he had deleted the data from the computers, which has resulted into jeopardy to the work of the respondents department.

I have heard the learned counsel for the parties and appraised the paper book.

There is no dispute to the ratio decidendi culled out by the Hon'ble Supreme Court in Hargurpratap Singh's case (supra), but the fact remains that the petitioner is no longer in job and the respondents, during the pendency of the writ petition, have appointed the Data Entry Operators on contractual basis. Such practice has already been deprecated by the

Hon'ble Supreme Court and by this Court in so many judgments.

There is another aspect of the matter, which cannot be ignored as the petitioner has been involved in two FIRs and according to the learned counsel, in FIR No.56 dated 18.1.2013, the police has filed cancellation report and no article allegedly stolen has been recovered from the petitioner. Thus, the respondents have resorted to unfair labour practice and has intentionally roped the petitioner in the commission of the criminal offences.

Be that as it may, the fact remains that the petitioner had performed the duty of Data Entry Operator for a period of 1-½ years and the respondents have appointed the Data Entry Operators on contract basis.

Keeping in view the aforementioned facts, I deem it appropriate to dispose of the writ petition by issuing appropriate directions to the respondents to consider the case of the petitioner for employment as Data Entry Operator on contract basis in case there any vacancy exists and if not then as and when the respondents cause an advertisement for appointing Data Entry Operator on contract basis, preference shall be given to the petitioner subject to the satisfaction of the authorities with regard to the fact that the petitioner is not facing any criminal action.

With the aforementioned directions, the writ petition is disposed of.

July 24, 2015
ramesh

(AMIT RAWAL)
JUDGE