

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

**CWP No.23654 of 2012
Date of decision:19.2.2016**

Sital Singh & ors.

... Petitioners

Versus

State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. HC Arora, Advocate,
for the petitioners.

Mr. Vaibhav Sharma, DAG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. It is beyond cavil that the initial entry into service of the Safai Karamchari Bhalai Board, Punjab, by the petitioners was without sanction and authority of law inasmuch as the Chairman of the Board on his own whims appointed the four petitioners on different posts in violation of equal opportunity mandates in Articles 14 and 16 of the Constitution of India. There is no gainsaying that the petitioners were appointed on different posts including those of Safai Karamcharis, Stenographers, Personal Assistants and Superintendent Grade-I [the last two engaged after retirement from service of the Punjab Government] without public advertisement or by resorting to open merit competition procedure. Their appointments are thus illegal as explained in **Secretary, State of Karnataka & others Vs. Uma Devi & others**, 2006 (4) SCC 1.

The petitioners are before the Court in writ proceedings claiming reinstatement to service and salary for the period spent, remaining unpaid.

2. When the illegal appointments came to the notice of the Government for approval the Chairman of the Board was asked to terminate their services, but he did not, and therefore, any period spent in service beyond the date of communication of the letter of State Government will not legally be service of the Board but personal service of the Chairman from whom the claim for salary, if any, can be satisfied. There is also no proof that sanctioned service was rendered. The disputed period of a few months cannot be resolved in writ jurisdiction and the petitioners may take recourse to their remedies, if available in the civil court to establish their rights of recovery of money upon evidence and proof of legal and valid employment. As far as period of five months is concerned protected by interim orders of this court, the salaries for that period have been paid and those will remain non-recoverable from the petitioners on principles of equity since the fault rested with the Chairman of the Board in employing them without proper sanction of law.

3. Mr. Sharma appearing for the State of Punjab states that the Board has in the meanwhile been disbanded. The question of reinstatement to service does not arise even assuming in arguendo that their appointments were legal and valid. The Court is informed that Government have initiated action against the former Chairman to make good the loss occasioned by payment of salaries to the four petitioners for

the period of service rendered illegally. However, no comment is made on those proceedings except to say that they will be taken to their logical end after having being initiated. No further issue remains to be debated and decided or is pressed by counsel faced with the above situation.

4. Writ petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

19.2.2016
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