

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8823 of 2016

Date of decision:23.9.2016

Rajinder Singh

... Petitioner

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. SK Verma, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. D.A.G., Haryana.

Mr. Padamkant Dwivedi, Advocate,
for respondent No.4.

RAJIV NARAIN RAINA, J.(Oral)

When notice of motion was issued on July 8, 2016 in this matter, Mr. Rathee was asked to accept notice on behalf of respondents No.1 to 3 and to forward the order to the Principal Secretary to Government of Haryana, Local Bodies Department, Chandigarh to personally examine the issue of outsourcing of firemen in Municipal Council, Sirsa and to report on the level of fitness of those appointed through tenders working as Firemen under the contractor-5th respondent as to their competence in fire fighting standards. The case was adjourned to August 8, 2016 and has come up today for hearing.

Mr. Harish Rathee has filed an affidavit in Court dated September 22, 2016, of Mr. Anil Kumar, IAS, Principal Secretary to Government of Haryana, Urban Local Bodies Department, Chandigarh, on behalf of the State where it is stated that the matter has been re-examined and it is found that the entire process of engaging services of

Firemen on contract basis through independent contractor-respondent No.5 was completed at the level of the Deputy Commissioner, Sirsa, being the competent authority. As such the matter was forwarded to the Director, Urban Local Bodies, Haryana, who also holds the portfolio of Director Fire Service, Haryana. The affidavit narrates that after a detailed examination of the matter and after inspecting the record pertaining to the appointments of fire staff appointed through tendering process on outsourcing basis from a private agency namely M/s Dingman Power Security Services Pvt. Ltd., Sirsa and getting checked the level of fitness as per requirements of physical standards in fire fighting and the report submitted to the Government the conclusions revealed has been tabulated in para 6 of the affidavit, which are made part of this order. We are presently concerned with the contents of para 7, where it is recorded that the report has been examined and lapses have been found at the level of the Selection Committee constituted by the Deputy Commissioner, Sirsa for the selection of candidates to be appointed on contract basis through M/s Dingman Power Security Services Pvt. Ltd. as the physical standards of candidates mentioned at Sr. No. 4, 3, 8, 11 & 13 are short of requirements of the job and those names do not fulfill the criteria prescribed for these engagements/appointments. The Principal Secretary to Government Haryana has directed the Deputy Commissioner, Sirsa, to fix the responsibility of the concerned delinquent officers and officials who made such arrangements and to send the report to him so that appropriate action can be taken against them.

Mr. Rathee appearing for the State submits that candidates who are found possessing physical standards, requisite qualifications,

experience and satisfy the eligibility criteria, but who have been inducted through outsourcing method, as revealed in the report, the relevant portion of which is incorporated in para 6 of the affidavit, the sole petitioner, who fulfills the criteria would be considered by the Government by recalling him to work as Fireman in case the need arises to municipal service in the fire wing. Mr. Rathee candidly states that vacancies are indeed available in this field of work and every effort will be made to engage the candidates through a better designed outsourcing system, which is both fair and transparent and to adjust the petitioner as a Fireman, and other similarly situated persons, for the present and in the future, against available sanctioned posts to avoid disruption of essential services.

It may be noted that the petitioner has worked as a Fireman for 7 years in some capacity or the other but mainly through outsourcing through contractors. However, since there is dire need of Fireman and that he has gained hands-on experience of 7 years he may be inducted again through tendering and outsourcing system. That is in order. But the ends of justice would require that the petitioner is returned to service, to be paid his last drawn salary by the Municipal Council, Sirsa, with no right accruing to him of permanency and subject to regular recruitment taking place where he will have a chance to compete. And for the present, as and when the tender is opened and a contractor is in position, the petitioner's name would be transferred to the record of the outsourcing agency whenever that happens. The stand of the State in its affidavit and having regard to the submissions of Mr. Rathee is accepted as an interim arrangement that the petitioner will be re-inducted as Fireman with the

Municipal Council, Sirsa. Consequently, in terms of this order, the petitioner be taken back into service forthwith to be paid salary till the contractor is in place. However, he will neither claim nor be entitled to arrears of salary for the intervening period from the date of disengagement in 2014 till reinstatement by this order in the background of the affidavit and the findings reported to State Government. However, the State Government and the local bodies concerned spread throughout the State would urgently take steps to make regular recruitment of qualified and trained Firemen to prevent and avoid fire disasters waiting to happen. Fire service is essential to disaster management.

In view of above, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

23.09.2016
monika

Whether speaking/reasoned *Yes*

Whether reportable *No*