

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CWP No.1802 of 2015

Date of decision: 31.07.2017

Anil Kumar & others

....Petitioners

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Ms.Amandeep Kaur, Advocate, for
Mr.Harish Nain, Advocate, for the petitioners.

Ms.Shruti Jain Goyal, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

Petitioners seek quashing of the order dated 30.01.2015 (Annexure P-9), whereby their service had been discontinued while working as Data Entry Operators-cum-Clerks. It is their case that on the basis of test and interview, they had been offered the work on contractual basis on 18.07.2013 (Annexure P-4) and they continued to do so till the impugned order was passed.

The petitioners were protected vide the interim order dated 12.02.2015 that they would not be replaced by any contractual employee. The respondents, in their reply, have admitted that the petitioners had joined the office of the answering-respondent and they are presently working in the said office.

The order impugned, as such, does not show the reason for dispensing with the services of the petitioners, in any manner. The offer of contract was in accordance with the terms and conditions of the outsourcing policy of the Government, whereas the orders dispensing with the services, does not show that there was any violation of the said policy, as such. An effort has been made to justify the impugned order, in the written statement. It is settled principle that the State cannot supplement the same by giving reasons in the reply. Reference can be made to the judgment of the Apex Court in **Mohinder Singh Gill Vs. Chief Election Commissioner (1978) 1 SCC 405**, wherein it has held that reasons have to be mentioned in the order itself. Relevant portion of the judgment reads as under:

“8. The second equally relevant matter is that when a statutory
functionary makes an order based on certain grounds, its

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validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. In Gordhandas Bhanji case :

"Public orders publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself".

Orders are not like old wine becoming better as they grow older."

The said view was followed recently by the Apex Court in **Dipak Babaria and another vs. State of Gujarat and others 2014 (3) SCC 502** and **State of Punjab Vs. M/s Bandeep Singh & others 2016 (1) SCC 724** wherein it was held that the State cannot be allowed to supplement or improve its stand by way of filing affidavits.

Resultantly, the impugned order dated 30.01.2015 (Annexure P-9) is hereby quashed. It is open to the respondents to take action, in accordance with law, for disengaging the petitioners by giving valid reasons and by giving the petitioners an opportunity of hearing.

With the above-said direction, the present writ petition stands disposed of.

31.07.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No