

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 13773 of 2017
Date of decision: 04.07.2017

Karan Singh and othersPetitioner(s)

Versus

State of Haryana and others ...Respondent(s)

AND

CWP No. 13902 of 2017

Pardip Choudhary and othersPetitioner(s)

Versus

State of Haryana and another ...Respondent(s)

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

Present: Mr. Arjun Partap Atma Ram, Advocate,
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. R.S. Longia, Advocate,
for UOI.

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of two writ petitions i.e. CWP Nos. 13773 and 13902 of 2017, as common questions of facts and law are involved in both the writ petitions. For reference, ***CWP No. 13773 of 2017, Karan Singh and others vs. State of Haryana and others*** is being taken up.

The petitioners seek quashing of the letter dated 05.06.2017

(Annexure P-7) whereby, there has been discontinuation of the services of

the “Preraks” (2 Coordinators engaged per Gram Panchayat @ ₹2,000/- monthly honorarium) engaged under Saakshar Bharat Programme in 10 districts of Haryana. Vide the said letter, the Director, Secondary Education, Haryana-cum-Member Secretary, State Literacy Mission Authority wrote to the Additional Deputy Commissioner-cum-Member Secretary, ZLSS that due to non-receipt of sufficient grant in the concerned component to pay honorarium to the Preraks, it had been decided to dispense with their services to implement the Centrally Sponsored Programme of Adult Education, “Saakshar Bharat” with immediate effect. Resultantly, it was directed that presence beyond 06.06.2017 should not be marked and all the records and assets of the Adult Education Centre be kept in custody of the Head of the senior most Government School located in the concerned Gram Panchayat.

Counsel for the petitioner has vehemently submitted that the scheme continues to be in force till 30.09.2017 and, therefore, the petitioners should at least be permitted to continue till the scheme or till further orders in case the scheme is further extended.

In the reply filed by the State, it has been averred that the honorarium to the petitioners was being paid from the Continuing Education-Recurring Component. The required amount for running the scheme on roll upto 30.09.2017 was ₹54 crores and the sanctioned amount was only ₹37,23,50,000/- and, therefore, it was not possible to run the scheme with the Preraks due to shortage of funds from the Central Government. It was further averred that the honorarium for more than 8 months was yet to be cleared and the State Government had released approximately ₹5.14 crores excess to the matching state share. Due to

financial constraints, the services had been dispensed with vide letter dated 05.06.2017 and they had been engaged on purely contract basis and in such circumstances, they had no right to file the writ petition.

A perusal of the appointment letter dated 01.10.2012 (Annexure P-3) of one of the petitioners would go on to show that selection was originally for one year on the basis of a contract or till the termination of the scheme, whichever is earlier. As per clause 5, the limit of the contract could be increased as per the requirement and the limit of the contract was for one year or less time. There was no commitment as such that the work tenure was bound to be increased. Clause 1 & 5 read thus:-

“1. This selection is originally for one year on the basis of contract, which will be continued for one year or till the termination of the Scheme, whichever, is earlier.

5. Your limit of contract shall be for one year or less time or it can be increased as per the requirement and on the basis of your achievement or performance. The undersigned shall not be bond to increase your work tenure in the Saakshar Bharat Mission.”

Thus, it is apparent that the appointment was purely on contract basis for a period of one year which has long expired.

Similarly, Union of India has taken the plea that the extension of the programme had been done vide letter dated 30.03.2017 without changing scope, nature and coverage of the scheme and without creating any additional posts and no additional funds had been committed for the extended period. It has further been mentioned that the specific component of recurring grant for continuing education activities (which include the component of honorarium to Preraks), the total approved cost was

₹37,23,50,000/-.

Thus, it would be apparent that the State is funding the deficit amount and as per the stand, the sanctioned amount was ₹37,23,50,000/- whereas, the requirement was of ₹54 crores and the excess of ₹5.14 crores had been released by the State and it was a big challenge for the State.

In such circumstances, once as per the terms of the contract the petitioners are not as such entitled for extension to increase their work tenure as per Clause 1 and 5 and they have no such legal right to continue. Further, in view of the financial exigencies involved, this Court is not to force upon the State a financial liability as the State is the best judge of its financial resources. Accordingly, no such directions can be issued for continuing in service till the end of the scheme, as prayed for and the present writ petitions are dismissed.

It is, however, made clear that this Court is not commenting upon any right of the petitioners in case the scheme is further extended and in case the State wishes to further employ the petitioners at any later stage. In case the State wants to re-employ the petitioners on the same terms and conditions, it will always be open for it to do so. Anything said herein will not prejudice the right of the petitioners at that point of time.

04.07.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No