

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

211

**CWP-24984-2012 (O&M)
Date of decision:25.07.2017**

Food Corporation of India Paledar Union

....Petitioner

Versus

Food Corporation of India and others

....Respondents

211(2)

CWP-26053-2014 (O&M)

Parveen Kumar and others

....Petitioners

Versus

Food Corporation of India and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr.J.S.Maanipur, Advocate for the petitioner
in CWP-24984-2012.

Mr. Arihant Goyal, Advocate for the petitioners in
CWP-26053-2014.

Mr. Manav Bajaj, Advocate for the respondents.

P.B. BAJANTHRI, J. (ORAL)

This order shall dispose of the aforementioned two petitions. However, for convenience and clarity, facts are being taken from petition bearing No. 24984 of 2012.

2. In the instant writ petition, petitioners have assailed communications/orders dated 07.04.2012 and 12.04.2012 (Annexures P4 and P5 respectively) issued by respondents No.2 and 3 and further sought for a direction to the respondents to include their names which were left out arbitrarily when the Three Member Committee was constituted to include certain workers which are working in various FCI godowns.

3. Learned counsel for the petitioner submitted that petitioners have joined services in the year 1988 and they have worked up to 23.04.2010. Government of India had issued a notification on 23.04.2010 while exercising power under sub-Section 1 of Section 10 of the Contract Labour(Regulation and Abolition) Act, 1970 (Act No.37 of 1970) relating to the conditions of the work and benefits provided for the contract labour and other relevant factors. Notification is supported by schedule. In the Schedule there are various food storage depot of Food corporation of India consists of 60 godowns. Item No. 39 relates to Food Corporation of India, Food Storage Depot Khanouri, Punjab where petitioners were stated to have worked. Pursuant to Annexure P2 notification dated 23.04.2010 petitioners' name have not been included by the Three Member Committee. For non-inclusion of their names,

petitioners' submitted representation as well as legal notice. The same have been turned down vide communications dated 07.04.2012 and 12.04.2012 (Annexures P4 and P5 respectively). Hence, the present petition.

4. Learned counsel for the petitioner submitted that petitioners' services were engaged by the Food Corporation of India for the period from 1988 to 2010. Therefore, excluding their names pursuant to the notification dated 23.04.2010 (Annexure P2) is highly arbitrary and illegal. Consequently, the communications 07.04.2012 and 12.04.2012 (Annexure P4 and P5 respectively) are liable to be set aside and further petitioners are entitled for direction to the respondents to include their names in the seniority list prepared by the Three Member Committee pursuant to the notification dated 23.04.2010 (Annexure P2).

5. Per contra, learned counsel for the respondents vehemently contended that petitioners were not at all working in the Food Storage Depot, Khanauri, Punjab. On the other hand, their services have been utilized only for the open godowns which do not fall under Food Storage Depot, Khanauri, Punjab. Thus, petitioners names have not been considered by the Three Member Committee pursuant to the notification dated 23.04.2010. Thus petitioners have not made out a case so as to interfere with the communications 07.04.2012 and 12.04.2012 (Annexures P4 and P5 respectively).

6. Heard learned counsel for the parties.

7. Crux of the matter in the present petition is whether

petitioners' case falls under the notification dated 23.04.2010 (Annexure P2) or not? Perusal of the preamble portion of the notification it clearly speaks that “godowns and depots of the Food Corporation of India as specified in the Schedule given below” Notification do not distinguish whether it is a closed or open godown so as to reject the petitioners' claim that they were working in hired godown (open godown). Even reading of item No. 39-Food Corporation of India, Food Storage Depot, Khanouri, Punjab do not distinguish whether persons who are working in closed godowns or open godowns. Therefore, reasoning assigned by the respondents that the petitioners services were engaged in hired godown (open godown) is not tenable and it is contrary to notification dated 23.04.2010. Having regard to the fact that notification dated 23.04.2010 (Annexure P2) do not distinguish between the Food Storage Depot to the extent of whether it is open or closed godowns so also hired godowns, accordingly, Annexures P4 and P5 are hereby set aside. Respondents are directed to consider petitioners' name at appropriate place in the seniority list prepared by Three Member Committee and include in the seniority list within a period of three months.

8. CWP stands allowed.

9. At this stage, learned counsel for the respondents relied on the statement made in the communication dated 25/26.11.2010 (Annexure R4/1) criteria laid down by the Food Corporation of India for the purpose of implementation of the notification dated 23.04.2010 (Annexure P2). Notification dated 23.04.2010 do not empower Food

Corporation of India to lead any criteria for the purpose of implementation of the notification dated 23.04.2010. Accordingly, above contention that FCI laid down certain criteria for inclusion of workers' name is hereby rejected.

25.07.2017

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons	Yes/No
Whether Reportable:	Yes/No