

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

101/229

CWP-20942 of 2015 (O&M)

Decided on : 29.09.2017

Amirtpal Singh

... Petitioner

Versus

Presiding Officer and others

.. Respondents

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

Present : Mr.Ashok Kumar Khunger, Advocate
for the petitioner.
Mr.B.S.Sewak, Addl.A.G, Punjab.

Ms.Priyanka Dalal, Advocate for respondent No.4.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has challenged the award dated 22.04.2015 (Annexure P/3) passed by the Labour Court, Bathinda.

Respondents-State has floated a scheme in implementing of health related scheme and it was entrusted to Zila Parishad. Doctors were engaged for the purpose of running the Subsidiary Health Centres (SHCs) in Shri Muktsar Sahib District. There are 44 such units, wherein 44 doctors and 44 para medicos were engaged. Initially doctors were appointed with certain instructions to maintain the unit, including appointing para medicos. In this regard, there was misuse of para medicos services by the doctors in not paying appropriate wages. Consequently, an issue was raked up by the para medicos so also doctors. State Government while examining the grievances of both Doctors and Para-medicos issued instructions to the doctors, specifically directing them to

pay a sum of Rs.5000/- to each of the para medico by the doctor. Such instructions were subject matter of litigation by the doctors. This Court upheld the instructions issued by the State Government. Thereafter, Zila Parishads were directly making payments to the Para-medicos. In this background, the petitioner was appointed as para medico on 1.6.2006 and his services were terminated on 31.1.2010 and he raised an industrial dispute. The respondents also terminated similarly situated para-medicos who were resorted by filing writ petition before this Court which was numbered as CWP No.14840 of 2010. During the pendency of this petition, concerned respondent- State Government and Zila Parishads of Sangrur District reinstated them. Thus, para medicos whose services have been terminated in the Sangrur District, they were continued. Consequently, writ petition was disposed of on 3.3.2014. Whereas the petitioner who is similarly situated person and his dispute decided on 22.4.2015 against him by the Labour Court. Thus, the present writ petition.

Learned counsel for the petitioner submitted that State of Punjab directed to all the Additional District Commissioner-cum-Chief Executive Officers, Zila Parishad in the State of Punjab relating to multipurpose health workers like petitioner to the extent that they shall not be relieved including Rural Medical Officers on 08.04.2010. Further in respect of petitioner, Deputy Director, Headquarters of the Rural Development and Panchayat Department specifically directed to the chief Executive Officers, Zila Parishad, Shri Muktsar Sahib District on 7.9.2010 to take back the petitioner services whose services were

relieved. Instead of taking back the petitioner services, the Chief Executive Officer Zila Parishad, go on making correspondence as to how the order is required to be implemented when they have already appointed a new set of doctors and para medicos from 6.1.2010 onwards. It was pointed out that as on 6.1.2010, the petitioner was very much in service and his service were terminated on 31.1.2010. It was also submitted that when the similarly situated persons whose services have been taken back during the pendency of CWP No.14840 of 2010 in the Sangrur District, he is also entitled for similar benefits in the Shri Muktsar Sahib District for the reasons that both District Sangrur and Shri Muktsar Sahib District are implementing the State government scheme in respect of health through Zila Parishad. Therefore, award passed by the Labour Court is required to be set aside. Moreover Zila Parishad violated the directions of the State Government in not implementing the directions dated 7.9.2010.

Per contra, learned counsel for the respondents pointed out that initially, para medicos were not appointed by the Zila Parishad or have they been paid wages by the Zila Parishad. They were appointed and paid wages by the doctors. Only the newly appointed doctors and para medicos were being paid a sum of Rs.25,000/- and Rs.5000/- to each one of them by issuing cheque. Therefore, the petitioner whose services have been terminated on 31.1.2010 is not entitled for the relief sought in present petition. That apart, no vacancy of para medico is existed in the Shri Muktsar Sahib District since all 44 units are manned by Rural Medical Officer and para medicos.

Heard learned counsel for the parties.

The petitioner who was appointed as para medico on 1.6.2006 by the Rural Medical Officer is with reference to scheme of the State Government which was implemented by the Zila Parishad. Later on certain modifications have been brought under the instructions of the Government to the extent that payment for Rural Medical Officers and Para Medicos were given by the Zila Parishad directly. Such practice was introduced on 6.1.2010 when the new set of doctors and para medicos were appointed. As on 6.1.2010, petitioner was very much in service. Therefore, petitioner was paid certain amount or wages under the consolidated fund of the State Government which have been forwarded to the Zila Parishad. Thus, the respondents- Zila Parishad cannot shift its responsibility that petitioner was appointed by the Rural Medical Officer. In fact, on 13.2.2009 onwards, the Zila Parishad proceeded to pay wages to the Rural Medical Officers and Para Medicos. Thus, the petitioner was paid directly by the Zila Parishad from 13.2.2009 till 13.1.2010, the date on which his services were terminated. Faced with these factual aspects, read with the similarly situated persons whose services have been terminated which was subject matter of the CWP No.14840 of 2010, during the pendency of this petition, respondents/State as well as concerned Zila Parishad (Sangrur), have come forward to continue the services of the terminated para medicos. Therefore, there is no hurdle in continuing the petitioner as a para medico. Moreover, there was a specific direction by the Deputy Director of the Department of Rural Development and Panchayat on 17.9.2010.

The same was not implemented. Mere correspondence by the Zila Parishad and the department, ultimate decision has not been taken as is evident from Annexure R-2/7. That apart merely petitioner raised Industrial Dispute whereas others resorted to file writ petitions. The respondents discriminated among those who filed writ petition and among industrial dispute raised like petitioner. Therefore, there is arbitrariness in respondents action.

In view of these facts and circumstances, award dated 22.04.2015 (Annexure P/3) passed by the Labour Court is set aside. Zila Parishad-respondent No.4 and respondents No.2 and 3 are hereby directed to accommodate petitioner as a para medico worker. If the vacancies are not available at Shri Mukatsar Sahib District, in that event, respondent No.2 is hereby directed to create a supernumerary post of para medico and adjust the petitioner by reinstating him. Such exercise shall be completed within a period of three months from today. It is made clear that the petitioner is not entitled to back wages. Petitioner is entitled to continuity of services.

With the above observation, petition stands disposed of.

[P.B. Bajanthri]
Judge

29.09.2017
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No