

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

-.-

**C.W.P. No. 2822 of 2016
Date of decision: 20.09.2017**

Omveer & Ors.

....Petitioners

Vs.

State of Haryana & Ors.

....Respondents.

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

Present: Mr. Abhimanyu Singh, Advocate, for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

G.S.SANDHAWALIA, J. (Oral).

The petitioners, who are 207 in number, seek quashing of letter dated 22.01.2016 (Annexure P/5) issued by respondent No.2, whereby large scale termination of the services of contractual employees was being resorted to.

The case of the petitioners in nutshell was that they were contractual employees working since 2012-2014, as per their letters of appointment. One such letter dated 29.11.2012 (Annexure P/4) shows that the appointment was on the post of Staff Nurse. The condition for appointment was that there was fixed remuneration of Rs.13500/- (D.C rates) which was on contractual basis and would liable to be extended for another six months by respondent No.2. Vide impugned letter dated 22.01.2016 (Annexure P/5) it has been mentioned that the salary had already been released for the months of November and December, 2016, but wages cannot be released without getting further extension and therefore, notices should be issued if required as per Section 25-F of the Industrial Disputes Act, 1947 in batches of 10 at one time and services were to be taken from outsourcing agency after the notice period. Resultantly, the writ petition came to be filed.

In the reply it has been submitted that the order dated 22.01.2016 has not been implemented and petitioners are still working and therefore no cause of action arises.

Keeping in view the settled principal that a set of contractual employees cannot be replaced by another set of contractual employees, this Court is of the opinion that the petitioners would thus be entitled to continue in view of the judgment of Apex Court in **Hargurupartap Singh Vs. State of Punjab & Anr, 2007(3) SCC 292** Keeping in view the stand of the respondents themselves that they are not implementing the order, it is, thus appearing that there is sufficient work load with the respondents and therefore, it could not be justifiable as such to replace the persons with another set of similarly situated persons only through a separate outsourcing agency. Thus, the petitioners are liable to continue in service until they are replaced by a regular set of employees or on account of the fact that their services are not satisfactory and upto the mark, by giving of appropriate notice.

Accordingly, the writ petition is disposed of with the above said directions.

September 20, 2017
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(G.S. SANDHAWALIA)
JUDGE

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