

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

(i) LPA No.417 of 2016 (O&M)

Krishan Kumar Jakhar and others

..... Appellants

Versus

State of Haryana and others

..... Respondents

(ii) LPA No.418 of 2016 (O&M)

Sanjay Kumar and others

..... Appellants

Versus

State of Haryana and others

..... Respondents

(iii) LPA No.419 of 2016 (O&M)

Jitender Kumar and others

..... Appellants

Versus

State of Haryana and others

..... Respondents

Date of Decision 13.07.2017

**CORAM : HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI**

Present : Mr. D.S.Patwalia, Senior Advocate
with Mr. B.S.Patwalia, Advocate
for the appellants.

Mr. Samarth Sagar, Addl. A.G., Haryana.

MAHESH GROVER, J. (Oral)

This order shall dispose of aforesaid LPA Nos.417, 418 and
419 of 2016, preferred by the appellants.

There is no dispute that the appellants are now out of service. Initially, they were appointed as Heavy Vehicle Drivers for a period of six months. They approached this Court by way of CWP No.1624 of 2014, questioning the rider in the appointment letter limiting the period to six months or till the other selected candidates are appointed whichever is earlier. The Court negated the plea on the premise that the appellants had accepted the appointment letter and the conditions contained therein. It was, thus, held that they could not challenge the rider imposed upon them. Subsequently, the respondents issued another advertisement intending to fill up more than 700 posts of drivers on contractual basis which then became the cause of the appellants' grievance who filed CWP No.18693 of 2015 with the grievance that their services ought not to be replaced with contractual employees and the respondents had described maximum period of one year as the term of appointment or till the arrival of regular incumbents whichever is earlier.

Learned counsel for the appellants contends that learned Single Judge has exceeded the limited prayer made by the appellants while answering the writ petition. He contends that the Court had proceeded on an impression that there is prayer for regularization of the services whereas the limited prayer is that the condition in the advertisement stipulating the appointment for a period of one year or subsistence of the service till arrival of the regular drivers whichever is earlier was erroneous.

We have heard learned counsel for the appellants and have also perused the impugned judgment.

We are of the opinion that no such presumption has preceded

the reasoning of the learned Single Judge. It has been stated that Haryana Transport Department Group-C Haryana Roadways Service Rules 1995 would be applicable only for contractual employment. It is also not in dispute that the appellants had participated in the selection process but failed to make the grade. At this stage of the proceedings where the appellants were out of service and a valid selection of incumbents on contractual basis has come into existence, it would be futile exercise, if the plea of appellants is accepted, particularly when a challenge to the selection is also not before us.

Learned counsel for the appellants when confronted with the situation states that if vacancies are in existence the appellants can be appointed and at least the appellants may be considered in the next process to be initiated. We have no doubt that when the fresh process is initiated and if the appellants apply they would be considered and the State would grant a sympathetic consideration in view of the fact that appellants were at one time their employees and served for 2-3 years unless of course the work and conduct of all the incumbents was not satisfactory.

In view of above, all the aforesaid appeals stand dismissed.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

13th July, 2017

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Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No