

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Date of Decision:-03.07.2018

CWP No.12204 of 2018

Pardeep Kumar & Anr.

.....Petitioners.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Premjit Kalia, Advocate for the Petitioners.

JASWANT SINGH, J.

Two petitioners namely Pardeep Kumar and Tarsem Singh, who are working as Pump Operators, have preferred the instant writ petition, praying for setting aside of the order dated 27.04.2017 (P-7) passed by respondent no.2-Corporation, whereby their prayer for absorbing their services in Municipal Corporation, Amritsar has been declined by the Corporation.

Learned Counsel for the petitioners has argued that the petitioners were originally engaged on work charge basis on 07.04.1995 and 28.04.1995 respectively in Punjab Water Supply & Sewerage Board (hereinafter referred to as 'Board') and after numerous rounds of litigations, their services were regularized w.e.f. the date when their juniors were promoted. However, by that time, State of Punjab took a policy decision dated 26.08.2002 (P-3), whereby instructions were issued to transfer the disposal plants (where petitioners were working) to Local Bodies. But the petitioners were not permitted to join the respondent-corporation

and, therefore, they were constrained to file another writ petition bearing no.26615 of 2016, whereby this Court directed the Board to decide the representation. Consequently, vide order dated 22.02.2017 (**P-6**) the Board placed the services of petitioner at disposal of Municipal Corporation, however, the corporation declined to accept the services of petitioners vide detailed order dated 27.04.2017 (**P-7**). Thus, the petitioners were again aggrieved as their services stood relieved by the Board and they were also not permitted to join the Corporation. Therefore petitioners filed another writ petition no.12089 of 2017 and vide speaking order dated 26.09.2017 (**P-8**), Board allowed the petitioners to join duties. However, it is submitted that due to the illegal action of Corporation, the petitioners are left stranded as they are working in the Board and have not been absorbed by the Corporation despite numerous representations as well as instructions issued by the State Government. In support of his contention, he has relied upon the decision dated 10.08.2006 passed by the Division Bench of this Court, which is attached as Annexure P-11. Hence prayer has been made for allowing the instant writ petition and direct the respondents to permit them to join in respondent-Corporation.

I have heard learned Counsel for the petitioner at length and have also perused the paper book with his able assistance. However, I am of the view that the present petition deserves to be dismissed.

A perusal of the impugned order (**P-7**) passed by the Commissioner, Municipal Corporation, would show that in the year 2008, the Municipal Corporation had taken over a sewerage disposal plant (where petitioners were working) which was earlier maintained by respondent-Board. At the time of taking over the disposal plant, a conscious decision was taken not to take the services of the operators who were working at the said disposal plant. Further, as per circular dated 26.08.2002, it was specifically stated that at the time of taking over of operational maintenance of any work by Urban Local Bodies from Board, only competent, technical, necessary staff will be transferred to the Local Bodies.

The said decisions have been accepted by the Board as well as the other employees working in the said disposal plant and, therefore, have never been put to challenge. Meaning thereby, the petitioners have no vested right to have been absorbed by the respondent-Corporation and it is the discretion of the Corporation as to whether they want the services of the petitioners or not. It was for the first time, vide circular dated 17.06.2009 that State of Punjab directed its entities that in future any disposal plant etc., which are taken over, all the employees of the said plant would also be absorbed by the said entity. Since the said circular came into existence much after the date when the plant in question is absorbed, therefore, it is not applicable to the petitioners at all. Consequently, the recommendations/orders passed by the competent officer of Board, asking the respondent-Corporation to absorb the services of petitioners in Corporation, is without any authority and, therefore, was rightly not acted upon by Corporation. The judgment relied upon by the counsel for the petitioners Annexure P-11 dated 10.08.2006 cannot be made applicable to the present case, as the Government of Punjab had, on its own resolved to take all the employees of Board in Corporation. Thus, it was a consensual order rather than an order on merits.

In view of the above, finding no merit, present petition is hereby dismissed.

(JASWANT SINGH)
JUDGE

July 03, 2018
Vinay

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