

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

**CWP No.5692 of 2012 (O&M)
Date of Decision: 26.07.2018**

[1] RAJINDER KAUR AND OTHERS

..... Petitioners

Versus

UNION OF INDIA AND OTHERS

..... Respondents

&

CWP No.14543 of 2013 (O&M)

[2] RAJINDER KAUR AND OTHERS

..... Petitioners

Versus

UNION OF INDIA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ravi Sharma, Advocate
for the petitioner(s) (in both cases).

Mr. Brijeshwar Singh Kanwar, Standing Counsel
for respondent Nos. 1 & 3-UI
(CWP No. 14543 of 2013)

Mr. Ajay Kumar Gupta, Senior Standing Counsel
for respondent Nos. 1 & 3-UI
(CWP No. 5692 of 2012)

Mrs. Sudeepti Sharma, Additional Advocate General, Punjab

Mr. Naresh Kumar, Advocate
for respondent No. 4 (in both cases)

Mr. Surinder Garg, Advocate
for respondent No. 10 (in both cases)

Mr. Vijay Lath, Advocate
for respondent Nos. 13 & 15 (in both cases)

Mr. Barjesh Mittal, Advocate
for respondent No. 16-CAG
(CWP No. 5692 of 2012)

JASWANT SINGH, J.

1. By this common order two Writ Petition Nos.5692/2012 and 14543/2013 are disposed of as both are interlinked and filed by same petitioners. The petitioners filed first writ petition seeking revision of their pay scale and release of pending salary and second writ petition has been filed seeking quashing of their termination orders which were passed during pendency of first writ petition.

2. The Central Social Welfare Board under the aegis of Ministry of Women and Child Development, Government of India was established on 12.08.1953 by resolution of Government of India and registered as non profitable company under Section 25 of the Company's Act in the year of 1969. The object of the Board is to promote and implement welfare and developmental activities and schemes for the upliftment of poor and needy women and children throughout the country. The Central Social Welfare Board is functioning through State Social Welfare Boards which are set up in all the State Capitals of India.

3. The Central Social Welfare Board launched Mahila Mandal Programme in the year 1961 to take up the welfare programme/activities in rural areas for the welfare of women and children. The said welfare

programme was implemented through State Social Welfare Boards.

4. Bhartiya Gramin Mahila Sangh is a voluntary social organization which appointed petitioners on temporary/ad hoc basis. The Petitioners are employees of Mahila Sangh set up at district level.

5. As aforestated, Mahila Mandal Programme was initiated in 1961 and smoothly continued upto 2010. The Government of India was releasing grant to Central Social Welfare Board who through State Welfare Board was bearing 75% of expenditure of Mahila Sanghs and remaining 25% was arranged by institution as their contribution.

6. The Central Social Welfare Board through its officers inspected different centers of Mahila Sangh in the month of October' 2012 and found that most of the centers were lying closed, therefore, Board decided to close down Mahila Mandal Programme. On account of representations made by Petitioners, the Central Board assured to adjust them in other ICDS. It was also decided that financial assistance shall be discontinued and in this regard letter dated 14.02.2013 was addressed to Ms. Rajinder Kaur, President BGMS Workers Union, Punjab.

7. The claim of the Petitioners is that they are employees of State Government and entitled to revised pay scale as well as outstanding salary, apart from quashing of their termination orders. The Petitioners are claiming quashing of termination orders on the footing of humanitarian grounds as well equality with regular government employees. The averments of petitioners are more or less based upon humanity and equality before law.

8. The Deputy Commissioners of different districts who are in-charge of district level Bhartiya Gramin Mahila Sangh have filed their

replies and common thread running through all the replies is that Mahila Sangh is a voluntary Organization and its 75% cost is borne by Central Social Welfare Board through State Social Welfare Board who has decided to discontinue financial assistance and State Authorities cannot bear the burden. The employees were not appointed through regular appointment process and they were appointed by Mahila Sangh at their own that too on temporary/ ad hoc basis.

9. The Punjab State Social Welfare Board has deflected from its responsibility by submitting that they are working for and on behalf of Central Social Welfare Board who was paying 75% of expenditure of Mahila Sanghs. The State Welfare Board has no independent source of income or financial aid which can be utilized to accommodate Petitioners.

10. The Central Social Welfare Board in its reply has contended that Petitioners were not appointed by them and they are employees of voluntary organizations. The Central Social Welfare Board has implemented a number of welfare schemes for the upliftment of poor, women and children in urban as well as rural areas. They have found that it is not fit for them to continue financial assistance to Mahila Sanghs and thereafter conscious decision was taken to discontinue the financial assistance. The Petitioners were appointed by Mahila Sanghs so they have not right to claim revise pay scale or continuation of services against Board.

11. After having scrutinized record of the case and hearing arguments of all the counsel, this Court finds both petitions are bereft of merits and deserve to be dismissed. The undisputed facts as emerging from record of the case are that the Petitioners were appointed by Mahila Sanghs

on temporary/ad hoc basis; there was no appointment by State or Centre Government through regular appointment process. Mahila Mandal/Samiti/Sanghs are social voluntary organizations and it is prerogative of State to extend financial assistance. No voluntary organization can ask or compel the State to extend the voluntary assistance. It is within exclusive domain of the State to launch or discontinue any welfare scheme as well as to extend financial assistance to any voluntary organization. Government takes or extends assistance to voluntary organizations to implement their welfare schemes but it does not mean that employees of social welfare organizations would become employees of State government and they can claim continuation of their services even though voluntary organization is not able to meet out their expenses. It is for the voluntary organization to continue its employees or discontinue their services.

12. A similar writ petition No.1764 of 2012 was filed before Himachal Pradesh High Court who relying upon the decision of Hon'ble Supreme Court in the case of 'Manohar Lal Sharma Vs. Union of India' (2013) 6 SCC 616 vide order dated 17.09.2014 has dismissed the same. It has been held that Courts should not interfere in policy decision of Government unless there is arbitrariness on the face of it.

In the case in hand, the Petitioners have neither questioned decision making process nor alleged arbitrariness on the part of Respondents and only grievance of Petitioners is that they have been terminated even though they are working for more than a decade and in their middle ages it is difficult to get another job. The Respondents have terminated services of Petitioners on account of lack of financial assistance and Central Board's

policy decision to discontinue Mahila Mandal Programme. Court cannot go into policy making decision as held by Hon'ble Supreme Court (supra).

13. Apart from aforesaid facts, it is not within domain of this Court to decide disputed question of facts while exercising its jurisdiction under Article 226 of the Constitution of India. High Court cannot dwell into disputed questions of fact while deciding writ petition so this Court finds it unable to decide disputed question of rights and liabilities of rival parties. Therefore, present petitions deserve to be dismissed and accordingly **dismissed**, with liberty to petitioners to seek their remedy, if any, and so advised, by filing civil suits in accordance with law.

July 26, 2018
'rajneesh'

(JASWANT SINGH)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No