

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

1. **CWP No. 2445 of 2016**
Date of Decision:-24.04.2018

Buta Ram and others

...Petitioners

Versus

State of Haryana and others

...Respondents

2. **CWP No. 3341 of 2016**

Om Parkash and others

...Petitioners

Versus

State of Haryana and others

...Respondents

3. **CWP No. 3930 of 2016**

Gurnam Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

4. **CWP No. 4643 of 2016**

Vinod Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

5. **CWP No. 5669 of 2016**

Ashok Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

6. **CWP No.11778 of 2016**

Rakesh Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

7. **CWP No.8877 of 2016**

Sher Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

8. **CWP No.15796 of 2016**

Rohtash and others

...Petitioners

Versus

State of Haryana and others

...Respondents

9. **CWP No.2330 of 2017**

Vijender Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

10. **CWP No.25412 of 2016**

Darshan Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

11. **CWP No.25998 of 2016**

Parmod and others

...Petitioners

Versus

State of Haryana and another

...Respondents

12. **CWP No.26807 of 2016**

Ram Chand and others

...Petitioners

Versus

State of Haryana and others

...Respondents

13. **CWP No.2985 of 2017**

Danvir Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present:- Mr. P.S. Jammu, Advocate
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. Pawan Kumar Jangra, Advocate
for respondents No.4 to 6 in CWP No.25412 of 2016.

Mr. Kuldeep V. Singh, Advocate
for respondents No.7 to 12.

RAJIV NARAIN RAINA J.(Oral)

This common order shall dispose of all the aforementioned

thirteen Petitions.

Many of the petitioners are competent that the selection under the revised qualifications prescribed by the Government of India in its letter dated 28.5.2008 (Annex R-4) and have been unsuccessful in the selection. Each of the petitioners were given one mark for every year completed year of service towards experience. This concession was a head start given to them over and above the other contestants in running for the post of Gram Rozgar Sahayak.

In para 4 and 5 of the written statement filed by the State, it has been disclosed that the cadre of Gram Rozgar Sahayak was reduced which led to petitioners being rendered surplus. Paras 4 and 5 of the written statement dated 07.11.2016 read as under :-

“4. That Financial Commissioner & Principal Secretary, Government of Haryana, Rural Development Department vide his office letter No.JRY-III-2008/6973-7012, dated 28.5.2008, revised the earlier staffing pattern and according to this new pattern, it was decided that one Computer Operator for each DRDA, one Account Assistant for each DRDA and one Gram Rozgar Sahayak for two Gram Panchayats were to be appointed. (Copy attached as Annexure R-4). The Commissioner-MGNREGS-Additional Chief Secretary to Govt. of Haryana, Rural Development Department, Chandigarh vide his office letter No.MGNREGA-FM-2015/3183, dated 24.6.2015 informed and

suggested that according to new staffing pattern of 2008, the persons employed/engaged under NREGA at Sirsa are in excess of approved strength (Copy attached as Annexure R-7). Though, amount being spent as administrative expenses was under the prescribed limits; yet the number of persons, higher than the prescribed/suggested limit, were needed to be removed in compliance of instruction of Government issued vide letter No.MGNREGA-FM-2015/3183, dated 24.06.2015.

5. In compliance of the directions given by the Commissioner(MGNREGA)-cum-Additional Chief Secretary to Govt. Haryana, Rural Development Department, Chandigarh vide his Memo No.MGNREGA-FM-2015/3183 Dated 24.06.2015 (Copy attached as Annexure R-7), No. of posts of Gram Rozgar Sahayaks were reduced to half of the existing cadre.

Hence, in light of the above facts, the orders regarding removal of excess Gram Rozgar Sahayaks is sustainable in the eyes of law and the instant petition deserves to be dismissed.”

Half the existing cadre has been rendered surplus as per statement of the department. Still further, in the revised scheme and the public advertisement issued for appointing Gram Rozgar Sahayaks, many of the petitioners have participated in the selection process with the advantage

of weightage of experience, which others did not have the advantage of but still could not find berths.

Learned counsel for the petitioners on instructions from his client Buta Ram, who is present in Court, submits that some of the existing Gram Rozgar Sahayaks have been reinstated/selected on merit, who may not be writ petitioners in the present thirteen cases. These principles will apply where the respondents authorities have re-engaged the petitioners in view of the interim stay order dated 08.2.2016.

The State has asserted in para 7 of the written statement that selection was made in accordance and new academic qualifications prescribed with fresh directions issued by Government in this regard in its letter dated 24.6.2015. The State avers that the petitioners and their likes are only honourarium paid workers and not part of regular cadre of workers. Their engagement was only on a yearly basis. Besides the petitioners were removed from service in July 2015 and have approached this court in February 2016 without explaining the reasons for delay between the period.

Learned counsel for the private respondents relies upon the decision of this Court in **Baljeet Singh and others vs. State of Punjab and others**, 2014 (24) R.C.R. (Civil) 4, a decision which deals with Gram Rojgar Sewaks under the Mahatma Gandhi National Rural Employment Guarantee Scheme. It was held, while relying upon a previous ruling of the Supreme Court in **Gridco Limited and another vs. Sri Sadananda Doloi and others**, (2011) 15 Supreme Court Cases 16 holding that a contractual employee could claim no protection but the Court could always examine

whether there was any element of unfair treatment.

The Writ Court is tasked to judicially review the acts to measure fairness-in-action and determine whether there was any illegality, perversity, unreasonableness and unfairness or irrationality that would vitiate the action, no matter the action is in the realm of contract, if there is no material to show any of these infirmities in the action taken by the respondents, then interference would not be proper. I find none glaring at me. In this situation, I am not satisfied that none of these cases deserves to be allowed.

The petitions are accordingly dismissed.

However, in cases where payments have not been made despite the stay orders passed by this Court, then the State would be bound to pay the arrears of honourarium to those petitioners who have not been paid their dues. The amounts due be disbursed within two months from the date of receipt of certified copy of this order to the rightful claimants.

April 24, 2018
Vijay Asija

(**RAJIV NARAIN RAINA**)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No