

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 15.12.2018

1) CWP No. 2479 of 2017 (O&M)

Ashok Kumar & others
..... Petitioners

Versus

State of Haryana and others
..... Respondents

2) CWP No. 304 of 2017 (O&M)

Munish Saini and others
..... Petitioners

Versus

State of Haryana and others
..... Respondents

3) CWP No.6244 of 2018 (O&M)

Munish Kumar
..... Petitioner

Versus

State of Haryana and others
..... Respondents

CORAM: HON'BLE MRS. JUSTICE RITU BAHRI

Present: Mr. Ajay Kamboj, Advocate for the petitioners.

Mr. Gaurav Jindal, Addl. A.G. Haryana.

RITU BAHRI, J. (Oral)

This order shall disposed of three petitions bearing CWP No. 2479 of 2017 titled as Ashok Kumar & others vs. State of Haryana and others, CWP No. 304 of 2017 titled as Munish Saini and others vs. State of Haryana and others and CWP No.6244 of 2018 titled as Munish Kumar vs. State of Haryana and others.

Petitioners are seeking writ of certiorari for setting aside the

impugned action of the respondents whereby they have decided to replace the petitioners, working as clerk and jeep driver under the Haryana outsourcing policy in Municipal Council Sirsa by appointing some other candidates on contractual basis.

After notice of motion and as per interim order they were taken back in service. However, perusal of the order dated 20.09.2017 shows that salary for the period from April, 2016 to 16.08.2017 was paid to them on 19.09.2017. The petitioner is now claiming interest on this amount. In the applications the petitioners are making a prayer that they should be given interest for this amount.

In compliance of the orders dated 13.09.2017 it is stated that petitioners were appointed on contract basis under the outsourcing policy Part-II as they were to be appointed against regular posts and in this manner the petitioners were not granted to extend their service and the officer was directed to appoint the employees afresh as per Part-II of the outsourcing policy.

The Administrative Municipal Council-cum-Sub Divisional Officer, Sirsa instead of appointing the petitioners as per outsourcing policy Part-II kept on writing for extension of their services. The Deputy Commissioner was not aware that the petitioners have been working for more than one and half years without payment of salaries and this fact was never brought to the notice by the Executive Officer, Municipal Council, Sirsa. If the matter had been brought to the notice of the Deputy Commissioner, it could have referred the matter to the Finance Department for necessary action as per the guidelines of outsourcing policy Part-II dated

06.04.2015.

It was the duty of the Executive Officer, Municipal Council, Sirsa to inform the Deputy Commissioner about non-payment of salaries but he failed to do so, an attempt is made to explain that the Deputy Commissioner has taken the charge on 20.08.2017 but Dera sachha Sauda had to appear in CBI Court at Panchkula on dated 25.08.2017, the situation was tensed and a curfew has been imposed on 21.08.2017 and finally it is stated that Deputy Commissioner had never refused to release the salary of the petitioners, it was only the Executive Officer, Municipal Council, Sirsa who had concealed the facts and the very appointment of these persons against sanctioned post was not done as per the Haryana Government Outsourcing Policy Part-II.

A perusal of the affidavit shows that the salary of the petitioner was not paid on account of negligence of the Executive Officer, Municipal Council, Sirsa. The petitioners are continuing to work now under the outsourcing policy Part-II also.

This petition is being allowed that the petitioners are continuing to work and they can only be replaced by regularly selected candidate.

However, keeping in view the detailed affidavit filed by the Deputy Commissioner a cost of Rs.10,000/- is awarded to all the petitioners and the same be paid by respondent No.3-Executive Officer, Municipal Council, Sirsa.

(RITU BAHRI)
JUDGE

December 15, 2018
Sunil Devi

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