

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.6614 of 2014
Reserved on :21.12.2017
Date of decision:10.01.2018

Surender Kumar & others
Versus
....Petitioners

State of Haryana & another
...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Ramesh Malik, Advocate, for the petitioners
in CWP-6614-2014.

Mr.Sanjiv Gupta, Advocate, for the petitioners
in CWP-26076-2015.

Mr.Devender Gors, Advocate, for
Mr.Rajesh Bansal, Advocate, for the petitioners
in CWP-391-2016.

Mr.N.K.Ganga, Advocate, for the petitioners
in CWP-9547-2016.

Mr.Harish Rathee, Sr.DAG, Haryana.

Mr.Manoj Sood, Advocate,
for respondents No.2 to 8 in CWP-6614-2014.

Mr.C.L.Sharma, Advocate, for
respondents No.2 & 3 in CWP-26076-2015 & 9547-2016.
and for respondents No.2 to 8 in CWP-391-2016.

G.S. SANDHAWALIA, J.

This judgment shall dispose of CWP-6614-2014, CWP-26067-2015, CWP-9547 & 391-2016, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP-6614-2014 titled *Surender Kumar & others Vs. State of Haryana & another*.

Petitioners challenge the order dated 28.02.2014 (Annexure P-14) whereby their services as IED volunteers were dispensed with and they

were relieved by the Project Director-respondent No.2. Challenge has also been raised to the letter dated 30.10.2013 (Annexure P-11) whereby directions were issued for refund of the honorarium which was in excess of 2 months, since the engagement was for a period of 10 months and payment had been released for 12 months.

Counsels for the petitioners have argued that the petitioners' appointment was in pursuance of the selection process vide advertisement (Annexure P-2) and therefore, dispensing with their services was unjustified. Reference is, accordingly, made to the said advertisement issued whereby monthly honorarium was fixed at Rs.3000/- per month for the recruitment of IED volunteers to serve in Shiksha Pariyojana at the Block level.

The stand of the respondents, on the other hand, is that petitioners have been engaged on honorarium basis for conducting voluntary work including the Inclusive Education Scheme which was one of the components of the Sarv Shiksha Abhiyan Programme, which was being implemented through the Haryana School Shiksha Pariyojana Parisadh Panchkula (HSSPP), which was a Society registered under the Societies Registration Act, 1860. The annual budget for Inclusive Education Scheme was approved every year depending upon the number of children with special needs, identified and enrolled in Government schools. The petitioners had not been appointed against sanctioned posts but only to provide support to the children with special needs and also to the special teachers appointed in the Block. The engagement was neither

a job nor an appointment against any sanctioned post but was purely a voluntary work for which remuneration @ Rs.3000/- per month was being paid. The honorarium was given by the Ministry of Human Resource & Development for 10 months @ Rs.4000/- per month. The engagement as volunteers for next year completely depended upon the approval of the programme by the Project Approval Board of the Ministry of Human Resource & Development. For the current year 2014-15, the approval had not been given and therefore, action had been taken by relieving the petitioners.

The factual background, thus, being clarified, it would be apparent that the petitioners were only volunteers, as such, who were only given honorarium to take part in the Scheme, as such, for the benefits of the children who need special requirements. The petitioners, as such, have no legal right and it was not an appointment in strict terms whereby the petitioners could seek protection that they were being relieved without any basis. The project being financed by the Ministry of Human Resource & Development and not being financed for the next year, Project Director had rightly dispensed with their services. It has been further clarified that petitioner No.1 had joined on 28.03.2013 and therefore, having worked upto February, 2014, were only entitled for the remuneration for that period. The petitioners, thus, can seek no legal right, as such, to continue or claim that the letter dated 28.02.2014 suffers any legal infirmity.

The argument raised that under the Right to Education Act,

CWP-6614-2014, 26076-2015, 9547 & 391-2016

2009 the petitioners had some legal right, has also been controverted by for Union of India that unqualified teachers cannot be appointed as per the Right to Education Act and only technically qualified teachers could teach children, especially children with special needs.

In such circumstances, the action of the respondents in relieving the petitioners from voluntary services of IEDs cannot be faulted in any manner. The terms of the engagement, as such, as per Annexure P-1, would go on to show that it was a voluntary work and the petitioners were bound by the said terms and conditions. Same reads as under:

“You have been selected to do voluntary work under this IE SSA scheme by the committee. You will be required to provide/support to the children with special needs his or her parents and also to the special teachers appointed in the block. It is neither a job nor an appointment against any job. It is purely a voluntary work for which remuneration of Rs.3000/- per month will be given.”

Accordingly, in view of the above, the petitioners, now, cannot turn around and say that it is a job or an appointment which is permanent in nature and their services cannot be dispensed with.

Accordingly, finding no merit in the present writ petitions, the same are hereby dismissed.

10.01.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*