

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

**Civil Writ Petition No. 9721 of 2015 (O&M)
Date of Decision: 06.04.2018**

Harmeet Kaur and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Kapil Kakkar, Advocate
for the petitioners.

Mr. Manoj Bajaj, Additional Advocate General, Punjab
for respondent Nos. 1 & 2/State.

Mr. Anupam Singla, Advocate
for respondent No. 3/Punjab State Midday Meal Society.

Mr. Vivek Sharma, Advocate
for respondent No. 4/Punjab Ex-Servicemen Corporation Ltd.

JASWANT SINGH, J.

The petitioners, eight (08) in number, have filed this writ petition to challenge the order dated 23.12.2014 (**Annexure P-4**) as well as order dated 26.12.2014 (**Annexure P-8**), whereby the engagement of petitioners on contract basis as Data Entry Operators under Midday Meal Scheme stand terminated by the outsourcing agency (respondent No. 4), who had an agreement with the official respondents for providing the manpower as per requirement to respondent No. 2 (School Education-cum-State Project Director, Sarva Shiksha Abhiyan Authority, Punjab).

The only challenge in writ petition is laid on the ground that as the petitioners are working for last many years, their services cannot be terminated without any notice or opportunity of hearing on the ground of

absence from duty for the period from 03.12.2014 to 23.12.2014, and further the contractual employees cannot be replaced by another contractual employees. It is claimed that the attendance register (**Annexure P-9**) reflects their attendance.

In response, the separate written statements stands filed by respondent Nos. 1 to 3, as well as by the service provider (respondent No. 4). The candid stand put forth by the official respondents reveals that an agreement between respondent No. 4 and respondent No. 2 was executed on 01.01.2013, which was extended for another year i.e. upto 31.03.2015, and as per the agreement, respondent No. 4 had agreed to deploy the manpower as per requirement of the Department of Education. The services of the petitioners were provided to facilitate implementation of Midday Meal Scheme, which is programme of Govt. of India being implemented in association with State Government. The reply further highlights the fact that there is no direct relationship of employee and employer between the petitioners and the official respondents and further the termination is a result of an act of indiscipline on the part of the employees warranting termination in view of the conditions of appointment letter. It is stated in the reply that the petitioners took active part in pen down strike w.e.f. 03.12.2014 to 23.12.2014, and even efforts were made to bring petitioners back in job, through all the District Education Officers, vide communication dated 10.12.2014 (**Annexure R-1/4**). It was also specifically mentioned in **R-1/4** that if the strike is not ended, disciplinary action may be taken against them. The contents of the written statement has not been controverted by filing any counter/replication.

noticed that the action of respondent No. 4, in terminating the contractual services of the petitioners is invited by the petitioners themselves. The appointment letter contains the terms and conditions as well, and clearly stipulates that the services can be terminated without giving any notice or any compensation on account of various reasons, which include: *(1) disobedience of orders, rules and sub rules and conditions of appointment letter; (2) absence from duty for more than eight (08) days without intimation; (3) taking active part in activities in connivance with organization and taking part in illegal activities.*

There is no conflict on facts in this petition as admittedly the petitioners were on strike w.e.f. 03.12.2014 till 23.12.2014. Such an activity was continuously defeating the object of Midday Meal Scheme. This act of the petitioners apparently violated the conditions of their appointment as indicated above. It may be noticed that respondent No. 4 or the other official respondents did not take the extreme step of termination straightway, as an attempt was made through all the District Education Officers to bring petitioners back on duty, by giving up the strike. However, the petitioners did not respond to the call.

It can be safely inferred that the adequate opportunity was given to the petitioners to rejoin the duty, but the petitioners maintained their adamant stance and continued with the strike. The employees at that stage could have joined the work again and could have possibly resolved the issues with the employer as well, but that opportunity was also lost. The official respondents were left with no other option but to take the disciplinary action as the implementation of the Midday Meal Scheme was the paramount object. Mere marking of presence in attendance register is of

no help to the petitioners, rather it adds to the gravity of misconduct of the petitioners, who continued with their pen down strike. Therefore, in these circumstances, the order of termination of contractual engagement of petitioners does not warrant any interference and the petition deserves to be dismissed.

Dismissed.

April 6th, 2018
'dk kamra'

(JASWANT SINGH)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>