

LPA No. 166 of 2018 (O&M)

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

**LPA No. 166 of 2018 (O&M)
Date of decision: 09.8.2018**

Nafe Singh and others

... Appellants

Versus

The State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Ashwani Gaur, Advocate,
for the appellants.

ARUN PALLI, J.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 1.9.2016, rendered by the learned Single Judge, vide which the writ petition preferred by the petitioner-appellants, had since been dismissed.

In brief, the case set out by the appellants has been that the employees serving in various Municipal Committees in the State of Haryana had proceeded on an indefinite strike in December, 1996. Resultantly, the sewerage systems were choked and heaps of garbage started emitting foul smell, threatening the outbreak of epidemic. The local bodies found it extremely difficult to cope up with the situation and even the Government's endeavour to mediate or resolve the crisis failed to yield any results. That being so, the Government was left with no other option, except to make fresh appointments in place of the regular employees, who were on strike. Thus, the officers were assigned the duty to persuade the volunteers to join service and work as Sweepers (Safai Sewaks). In response, the appellants offered their services and were accordingly appointed as Sweepers

(Safai Sewaks) on daily wages. Whereas, a set of 94 other volunteers were appointed on regular basis, and they continued to work till the strike was called off. As a gesture of goodwill and being conscious of the fact that persons like appellants had joined service, to enable the respondent authorities to tide over the crisis, the Financial Commissioner and Secretary to Government, Haryana, Local Government Department, vide memorandum dated 13.5.1997 (Annexure P-3), required all the Deputy Commissioners and Commissioners of Municipal Corporations to retain all those employees, who were recruited during the strike period on regular basis. And, those who were appointed on ad hoc basis or on daily wages, were to be adjusted against the available vacancies, in order of seniority. However, as regards those whom the authorities were unable to adjust for want of vacancies, a seniority list was to be prepared so that they could be adjusted against future vacancies on priority basis. As a result, 94 employees, who were recruited on regular basis, were absorbed by the Government in the Municipal Committee, Panipat. But, the appellants, who were appointed on daily wages, their services were dispensed with. Nevertheless, in terms of the memorandum dated 13.5.1997, the appellants were to be either adjusted against the available vacancies or against future vacancies on priority basis. For, the repeated representations made by the appellants failed to evoke any response, the appellants were constrained to approach this Court, vide a writ petition, referred to above, to issue a writ of Mandamus, commanding the respondents to offer them appointment in the Municipal Council, Panipat or in other districts.

In the written statement filed on behalf of the State, it was pleaded, inter alia, that in terms of the policy decision of the Government, names of 264 eligible persons, appointed during the municipal strike, were received through the concerned Deputy Commissioners, and all such persons were adjusted on the posts available in different Municipalities of the State. But, for the appellants were

appointed only for a period of 89 days on DC rate, as a stopgap arrangement, they were relieved on completion of the period for which they were recruited. Therefore, claims of the appellants were wholly misconceived, and thus, liable to be dismissed.

We have heard learned counsel for the appellants and perused the records.

Concededly, the appellants were appointed as Sweepers (Safai Sewaks) on daily wages, as per DC rates for a period for 89 days. As per the records available with the respondent authorities, they were relieved from service on completion of 89 days and since the regular employees had rejoined, after the strike was called off. Undoubtedly, in terms of the policy decision of the Government, those volunteers, who were recruited on regular basis during the strike period (16.2.1996 to 4.3.1997), were required to be adjusted against the vacant posts. And, as a result, names of 264 eligible persons were received through the concerned Deputy Commissioners, who were absorbed against the posts available in different Municipal Committees. Nothing was brought on record to show that names of the appellants were ever forwarded to the Directorate for appointment/adjustment, in terms of the said policy of the Government. Not just that, in terms of the memorandum dated 24.4.2001, claim of only those employees could be entertained, who were not only appointed by the competent authority and were issued appointment letters, but who also worked throughout the period of strike, and could provide proof of payment of remuneration for such period. The categorical stand set out by the State has been; that the appellants were merely appointed for a period of 89 days, and were relieved on completion of the said period. Appellants failed to bring anything on record to the contrary or to show that they actually served throughout the strike period and were paid wages therefor. Further, the strike was called off on 4.3.1997, whereafter, as per the policy decision

of the State Government, 264 eligible volunteers were adjusted against the available vacancies. Thus, the cause of action, if any, had accrued to the appellants in the year 1997 itself, and the petition filed by them after a lapse of over seven years in the year 2004, suffered from gross and inordinate delay. Apparently, the appellants failed to substantiate their claim in terms of the policy decision dated 13.5.1997 as also in terms of the requirements expressed in memorandum dated 24.4.2001 (Annexure R-1). On being pointedly asked, learned counsel for the appellants could not refer to anything on record to show if the conclusion reached by the learned Single Judge was either contrary to the record or suffered from any material illegality.

In conspectus of the above, we are dissuaded to interfere with the impugned order and judgment dated 1.9.2016, rendered by the learned Single Judge. The appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

August 09, 2018
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO