

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8390 of 2019

Date of Decision: 29.03.2019

Sunil Kumar & Ors.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

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

Present: Mr. AK Singh Goyat, Advocate for the petitioners

G.S. SANDHAWALIA, J.

The present writ petition under Articles 226/227 of the Constitution of India seeks a direction to the respondents to extend the further contract period of the petitioners expiring on 31.03.2019 in terms of the judgment of the Hon'ble Supreme Court in **Hargurpratap Singh vs. State of Punjab & Ors. (2007) 13 SCC 292 (P11)**.

It is not disputed that the petitioners had earlier filed CWP No.8555 of 2016 which was also on the same facts and an interim order was passed in their favour on 05.05.2016. Thereafter the Engineer in Chief had also been asked to be present on 12.10.2018. Eventually, CWP No.1325 of 2016 along with which CWP No.8555 of 2016 was ordered to be heard, has been disposed of on 06.02.2019 in following terms:-

“1. This order will dispose of above mentioned three writ petitions, as common questions of law and facts are involved in them, which can conveniently be decided by a common order.

2. The petitioners, who were working as Helpers, Pump Operators, Clerk etc., have reached the eleventh hour of service faced with recommendations made by the Haryana Staff Selection Commission of selected candidates pursuant to a direct selection process of Group-D employees by way of direct recruitment initiated in response to public advertisement dated 04.02.2016. All of them were employed under the outsourcing

policy. There is a service provider in picture. Since regular hands are available, the petitioners will have to give way.

3. Today, in compliance of the previous order, Mr. Birender Singh, Engineer in Chief, Irrigation & Water Resources Department, Haryana, is present in Court and has filed his affidavit, which is taken on record. On a query, he informs the Court that the contract with the service provider is till 31.03.2019. He assures the Court that the petitioners will be retained till the expiry of the contract after which they can be replaced by regular recruits, who have been allocated the Irrigation Department. The HSSC has recommended the names of 3131 Group-D employees, out of which 815 are allocated to the Irrigation Department.

4. The only protection available to the petitioners under the law is that the contract employee will not be replaced by similar arrangement till regular hand is available to fill vacancies. They have hardly any right when employed through outsourcing policy and cannot claim direct relationship of employer-employee with the Government.

5. The interim order dated 12.10.2018 had proceeded on the submission of the petitioners' counsel that till date no post has been advertised. That assertion has been refuted today by Mr. Harish Rathee, DAG, Haryana, on instructions from Mr. Birender Singh in the presence of candidates available after regular selection.

6. In view of the position obtaining as above, no ground for interference is made out except limited to the protection of to the petitioners that they will continue till 31.03.2019. However, this order will not foreclose rights of any of the petitioners, which they may draw from the Industrial Disputes Act, 1947 and other Labour Laws, if advised.

7. Accordingly, all the petitions stand dismissed."

The said order has not been challenged by filing any appeal.

Resultantly, this Court is of the opinion that once the matter has become final *inter se* parties and the benefit as such was only to continue till 31.03.2019, the present writ petition will not be maintainable in the fact and circumstances in view of the reasoning given by the Coordinate Bench. A fresh ground thus cannot be maintained as has been sought to be raised in the present writ petition. There is thus no merit in the present writ petition which is liable to be dismissed in *limine*.

Faced with this, counsel does not press this writ petition.

The writ petition is accordingly dismissed as withdrawn.

29.03.2019

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(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No