

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

CWP-14632 of 2015

Date of decision: -02.12.2019

Kailash Chand and others

.... Petitioners

versus

State of Haryana and others

.... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Navjeet Singh, Advocate
for Mr. Diwan S. Adlakha, Advocate
for the petitioners.

Ms. Safia Gupta, AAG, Haryana.

Mr. R.K. Chaudhary, Advocate
for Mr. Rajesh Sheoran, Advocate
for respondent No.4.

HARSIMRAN SINGH SETHI, J. .

The prayer of the petitioners in the present writ petition is that they should not be replaced with the another set of daily wage employees and should be allowed to continue in service, till posts are available and further a direction be issued to the respondents that services of the petitioners shall not be terminated during the pendency of the present writ petition.

As per the facts mentioned in the writ petition, the petitioners were working as sweeper/drivers for the sanitation work through out sourcing agency and were put under the control of respondents No.3 and 4 in July 2014. Keeping in view the fact that the sanitation work was out

sourced by the Municipal Corporation, Yamuna Nagar, petitioners were appointed by the out sourcing contractor and were posted to perform duty in respect of the work, which the contractor had undertaken to perform from Municipal Corporation, Yamuna Nagar. Prayer of the petitioners is that a direction be issued to the Commissioner, Municipal Corporation, Yamuna Nagar not to replace the petitioners with the another set of contractual employees and they should be allowed to continue in service and further their services should not be terminated.

Upon notice of motion, the respondents have filed reply. In the reply, it has been stated that the petitioners were not employees of the Municipal Corporation, Yamuna Nagar, but the employees of the contractor, who was given contract of sanitation by way of out sourcing and as the petitioners are not the employees of the Municipal Corporation, Yamuna Nagar, no relief can be claimed against Municipal Corporation, Yamuna Nagar and further none of the petitioner is in service since 10.11.2013, therefore, their prayer for allowing them to continue in service is liable to be rejected.

Learned counsel for the petitioners has not disputed that the petitioners are not in service and further that they are not the employees of the Municipal Corporation, Yamuna Nagar, from which authority the benefit of continuity in service is being demanded by them. Once, there exist no master and servant relationship between the petitioners and Municipal Corporation, Yamuna Nagar, no relief, as being claimed in the present writ petition can be granted. Further, the petitioners are employees of the contractor, who is not even party to this writ petition. Further, once

the petitioners are no longer in service, no benefit of allowing them to continue in service can be extended to them.

In view of the above, no relief in respect of the claim as being prayed in the present writ petition can be granted to the petitioners.

Dismissed.

(HARSIMRAN SINGH SETHI)

02.12.2019

JUDGE

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| <i>aarti</i> 1. | Whether speaking/non-speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |