

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.19133 of 2019
Date of Decision: August 19, 2019

Sanjay Kumar

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Jasbir Mor, Advocate,
for the petitioner.

AMIT RAWAL, J.

Petitioner has approached this Court for claiming following
reliefs:-

- (1) For issuance of a writ in the nature of mandamus directing the respondents to allow the petitioner to continue to render service on the post of Driver (contract basis) under Outsourcing Policy Part II till filling up the posts through regular appointment;
- (2) for issuance of direction to the respondents to release the wages/salary of the petitioner from February, 2019;
- (3) grant of minimum pay scale etc.

The facts enumerated from the writ petition are that Government of Haryana issued a policy dated 06.02.2009 for engaging/ outsourcing of service. The aforementioned policy was amended by issuing instructions dated 06.04.2015. The purpose of issuance of policy and amendment was to strengthen the delivery of better services to the people.

District Elementary Education Officer, Ambala invited the applications for

filling up the post of Driver. The petitioner possessing educational qualification of 10+2, having driving licence and experience, submitted application being fully eligible and was found successful in the merit list which was prepared after conducting interview etc. On 06.01.2014, an agreement was entered into between the petitioner and the respondents, whereby the service of the petitioner was availed for a period of six months. Petitioner thereafter continued to work and discharged the duties with utmost sincerity, dedication and devotion.

Mr. Jasbir Mor, learned counsel for the petitioner submitted that the Chief Secretary to Government of Haryana issued instructions dated 10.10.2017 (Annexure P-7) authorizing Chief Secretary to extend the service of contractual persons employed under Part II of the Outsourcing Policy, in the eventuality of requirement, beyond two years. Since the petitioner worked for more than two years, the District Elementary Education Officer wrote a letter dated 01.05.2018 (Annexure P-8) to the Director Elementary Education, Haryana to grant necessary permission. District Elementary Education Officer submitted a letter dated 04.10.2018 (Annexure P-9) that the petitioner was appointed with permission by the department by causing an advertisement and allocation of budget. Accordingly, the case was sent for extension of service, vide letters Annexures P-9 and P-10 respectively. Director General Secondary Education, Haryana, vide letter dated 11.01.2019, informed the District Elementary Education Officer that necessary action be taken at their own level for payment of the salary as the Directorate did not give the sanction of salary and budget after January, 2019. Since the petitioner's contract expired, he was not allowed to join the service, but there was a deemed

extension of service as enumerated from the contents of letters Annexures P-12 and P-14 and, thus, urged this Court for directions as aforementioned.

I have heard the learned counsel for the petitioner and appraised the paper book.

It would be in the fitness of things to extract the contents of Annexures P-11 and P-14 dated 11.01.2019 and 10.06.2019. The same read thus:-

“Annexure P-11

Directorate of Secondary Education, Haryana.

To

Distt.Education Officer/

Distt.Elementary Education Officer, Ambala.

Memo no.22/147-HRME(6) Dated: 11.1.2019

Subject: Permission under outsourcing policy.

In reference to the subject cited above.

It is informed on the above cited subject that the necessary action be taken at your own level for payment of the salary of Sh.Sanjay Kumar, Driver O/o Distt. Elementary Education Officer, Ambala working on contract basis upto January 2019. This directorate shall not give any sanction of the salary/budget after January 2019.

Sd/-Superintendent HRM

For Director General Secondary

Edu.Har. Panchkula.

End.no.

A copy is sent to the Director Elementary Education, Haryana Panchkula for information and necessary action.

Sd/-Superintendent HRM

For Director General Secondary

Edu.Har. Panchkula.”

Annexure P-14

Directorate of Secondary Education, Haryana.

To

*Distt.Elementary Education Officer,
Ambala.*

Memo no.22/147-HRME(6) Dated: 10.06.2019

Subject: Permission under outsourcing policy.

*In reference to your office letter No.A.1/2018-4371 dated
4.1.2019 on the subject cited above.*

*It is informed on the above cited subject matter that
according to the point no.10 and 11 of the check list of the
Chief Secretary to Govt.of Haryana letter No.16/51/2015-3
GSII dated 31.5.2015, you have not taken the necessary
permission for extension of the services of the officials from the
Finance Department and grant the extension of service at your
own level, therefore, the service period of Sh.Sanjay Kumar,
Driver could not be extended.*

Therefore, it is regretted in the matter.

Sd/-

Deputy Superintendent HRME

For Director Secondary Education Hr.

Panchkula”

From the perusal of the aforementioned contents, it appears that the District Elementary Education Officer had not taken the necessary extension of the petitioner from the Finance Department at their own level, thus, in such circumstances, Director Secondary Education, Haryana was not in a position to extend the service period. Since the permission had not been sought, petitioner cannot implore for continuing of service, particularly when the Director Education, intimated, that there was no allocation of work.

For the reasons mentioned above, I do not find any irregularity and illegality in the action of the respondents in not allowing the petitioner to continue as his contract stood expired. It is not the case where the

petitioner has been able to bring his case within the parameters as laid down in **Hargurpratap Singh Versus State of Punjab & others, 2007 (13) SCC 292** that the department is contemplating to appoint contract employee.

Writ petition stands dismissed.

August 19, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No