

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

**C.W.P No. 1489 of 2018
Date of decision : 14.02.2019**

Sultan Ram and ors.Petitioners
versus

State of Haryana and others ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Tarun Sharma, Advocate for
Mr. P.S. Jammu, Advocate
for the petitioners.

Mr. Harish Nain, AAG, Haryana

Mr. Ankur Sedhar, Advocate
for respondent Nos. 4 to 7.

RITU BAHRI, J. (Oral)

Petitioner has filed the present writ petition seeking quashing the action of the respondents vide which the respondents have decided to replace the petitioners, working as Rozgar Sahayak under Mahatma Gandhi National Rural Employee Guarantee Scheme (MNREGA) in different Gram Panchayat by appointing some other candidates on contractual basis.

This Court while issuing notice of motion passed the following order on 24.01.2018:-

Learned counsel for the petitioners submits that the matters involving identical issue i.e. CWP Nos.2330 of 2017 and 25412 of 2016, are pending post notice for 20.04.2018. And vide an interim order dated 08.12.2016, in CWP-25412-2016, this Court had directed the respondents not to replace the petitioners therein except by way of regular appointment. He prays for an interim order in the same terms.

Notice of motion.

Mr. Siddharth Sanwaria, DAG, Haryana, present in court, accepts

notice on behalf of the respondents. Copies furnished. Learned State counsel prays for a short accommodation to file the written statement.

Adjourned to 20.04.2018.

Written statement, if any, be filed a week prior to the next date of hearing.

Interim order in the same terms as in CWP-25412-2016.

Learned State counsel at the very outset submits that this Court vide order dated 24.04.2018 dismissed CWP no. 2445-2016 and connected matters involving similar issue as in the present writ petition.

In the present case, the petitioners are working since last 6 to 10 years and their grievance is that now the respondents are replacing them with similarly situated temporary employees. This Court in CWP No. 25412-2016 had categorically observed that half the existing cadre has been rendered surplus, as per statement of the department. In the revised scheme and the public advertisement issued for appointing Gram Rozgar Sahayaks, many of the petitioners have participated in the selection process with the advantage of weightage of experience, which others did not have the advantage but still could not find berths. The relevant portion of the judgment dated 24.04.2018 reads as under:-

“The State has asserted in para 7 of the written statement that selection was made in accordance and new academic qualifications prescribed with fresh directions issued by Government in this regard in its letter dated 24.6.2015. The State avers that the petitioners and their likes are only honourarium paid workers and not part of regular cadre of workers. Their engagement was only on a yearly basis. Besides the petitioners were removed from service in July 2015 and have approached this court in February 2016 without explaining the reasons for delay between the period.

*Learned counsel for the private respondents relies upon the decision of this Court in **Baljeet Singh and others vs. State of Punjab***

*and others, 2014 (24) R.C.R. (Civil) 4, a decision which deals with Gram Rojgar Sewaks under the Mahatma Gandhi National Rural Employment Guarantee Scheme. It was held, while relying upon a previous ruling of the Supreme Court in **Gridco Limited and another vs. Sri Sadananda Doloi and others, (2011) 15 Supreme Court Cases 16** holding that a contractual employee could claim no protection but the Court could always examine whether there was any element of unfair treatment.*

The Writ Court is tasked to judicially review the acts to measure fairness-in-action and determine whether there was any illegality, perversity, unreasonableness and unfairness or irrationality that would vitiate the action, no matter the action is in the realm of contract, if there is no material to show any of these infirmities in the action taken by the respondents, then interference would not be proper. I find none glaring at me. In this situation, I am not satisfied that none of these cases deserves to be allowed.

The petitions are accordingly dismissed.

However, in cases where payments have not been made despite the stay orders passed by this Court, then the State would be bound to pay the arrears of honourarium to those petitioners who have not been paid their dues. The amounts due be disbursed within two months from the date of receipt of certified copy of this order to the rightful claimants.

Keeping in view fact that on similar issue, this Court had dismissed the CWP No. 2445-2016 and connected matters on 24.04.2018, the present writ petition also stands dismissed.

February 14, 2019
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No