

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

215+216

(1) CWP-7898-2020 (O&M)

Joginder Singh	Versus	... Petitioner
State of Haryana & others		... Respondents

(1) CWP-7904-2020 (O&M)

Rajesh Kumar	Versus	... Petitioner
State of Haryana & others		... Respondents

Decided on : 14.10.2020

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

Present: Ms.Dhivya Jerath, Advocate, for the petitioners.

Mr.Sukhdeep Parmar, DAG, Haryana.

Mr.Puneet Jindal, Sr.Advocate
with Mr.Amandeep Singh, Advocate, for respondents No.2 to 4.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawal, J. (Oral)

Challenge in the present writ petitions, filed under Articles 226/227 of the Constitution of India is to the order dated 22.05.2020 (Annexure P-1), whereby the services of the petitioners, who are contractual employees, who were working as Assistant Linesman on DC rate, have been terminated.

Counsel for the petitioners has submitted that show cause notice dated 14.05.2020 was issued to the petitioners and they had replied to the same on 20.05.2020 (Annexure P-3). Specific plea has been taken that illegal connection which was running had not been taken with the help of the petitioners but through private labour. The affidavit of the landowners and their relatives had also been relied upon.

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It is contended that while passing the impugned order dated 22.05.2020, removing the petitioners from service, respondent No.2 has not taken into consideration the reply filed to hold that the said defence was tenable or not and therefore, the order is liable to be set aside on this ground.

A perusal of the paperbook would go on to show that the reply was duly filed taking a specific defence. The reasoning given by respondent No.2 reads as under:

“You while remaining posted as ALM (DC Rate) in the office of SDO 'OP' Sub-Division UHBVN, Guhla have been held responsible for illegal connection found running from AP connection SOP to Sh. Fakir Singh S/o Sh. Fuman Singh R/o village Majri tehsil Guhla District Kaithal, erecting un-authorized line, for carrying illegal activities, mis-conduct and negligency in performing official duties. Moreover as per LL-1 the bore where energy was consumed, was un-authorized installed, the record of connection was not made available during checking and afterwards.

A notice has been issued to you vide this office memo no.Ch-208/MP-21/AG-Vol-V dated 14.05.2020 as an opportunity of hearing and after considering your written reply by the undersigned and keeping in view of material facts/evidences on record, that your performance/conduct was not found satisfactory & as per clause-7 of agreement, your services are liable to be dispensed with in terms of conditions mentioned in ibid affidavit. Thus your services are dispensed with, with immediate effect from the date of issue of this letter.”

Thus, it is apparent that the defence of the petitioners was never taken into consideration and it is a non-speaking order in that context since only reliance has been placed upon Clause 7 of the agreement that if the performance

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and conduct is not satisfactory, the services are liable to be dispensed with. However, it is not only Clause 7 the basis of the order, as is apparent from the order which talks about the illegal activities, misconduct and the unauthorized connection given to a bore which had been found on checking. In such circumstances, the order cannot be said to be a reasoned order as it is adversely affecting the rights of the petitioners whose services have been dispensed with and who were working with the respondents since 2008 as per the petitioners. It is the case of the respondents No.2 to 5 however that the petitioners have been working since 2011.

Accordingly, keeping in view the above, the impugned order dated 22.05.2020 (Annexure P-1) are quashed. Liberty is given to the said respondent to pass a speaking order, after taking into consideration the defences raised by the petitioners in their replies to the show cause notice.

OCTOBER 14, 2020
sailesh

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No