

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

Sr.No.105

CWP-14312-2020

Date of Decision: September 14, 2020

ANIL KUMAR AND ANOTHER

...Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Sandeep Kotla, Advocate,
for the petitioners.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the light of COVID-19 pandemic.

Through the present petition, the petitioners are seeking issuance of mandamus for directing the respondents to reinstate/re-engage the petitioners on the post of Chowkidar and Sweeper on contractual basis till the post is filled by way of regular appointment.

It is the claim of the petitioners that petitioner No.1, namely, Anil Kumar, was appointed as Chowkidar on 24.10.2016 and petitioner No.2, namely, Pushpa, was appointed as Sweeper on 22.10.2016, by respondent No.3. They were discharging their duties to the satisfaction of the employer-Department. However, in pursuance of retirement of the then Principal of Government College for Women, Behal District Bhiwani, the Principal of Government College for Women, Siwani, District Bhiwani, was

given the dual charge, who had then written to outsourcing agency on 27.11.2019, for providing non-teaching staff including the employees on the post, on which the present petitioners were working i.e. Chowkidar as well as Sweeper. Pursuant to the same, the petitioners were relieved from their respective posts despite the same being against the instructions issued by Directorate Higher Education, Haryana Shiksha Sadan, Panchkula, to all the Principals of the Colleges in the Haryana State. The direction so given in the said letter, which has been placed on record as Annexure P-13, reads as hereingiven:-

“ The respondents cannot fill up the posts in future replacing the contractual employees with another set of contractual employees except by resorting to regular appointments. This view of mine is supported by the judgement of the Hon'ble Supreme Court in Hargurpratap Singh's case (supra) wherein directions have been given that till regular appointments are made the persons working on contractual basis cannot be dispensed with.

The above judgment of the Hon'ble Court may be applied to all i.e. to the petitioner and to the non-petitioners as well as in the light of litigation policy and also to avoid legal complication.”

In view of the aforesaid instructions, it is evident that the petitioners cannot be replaced by another set of contractual employees, as so done in the present case.

Notice of motion.

Mr. Kapil Bansal, Deputy Advocate General, Haryana, accepts

notice on behalf of the respondents.

At this stage, it has been brought to the notice of the Court about the representations filed by the petitioners pending adjudication, the same are Annexures P-8 to P-10. However, learned State Counsel has given assurance that the aforesaid representations shall be decided within a period of four weeks *vis-a-vis* the petitioners.

In view of the same, present writ petition is hereby disposed of while giving direction to respondent No.3 to consider the case of the petitioners for reinstatement/re-engagement, in case work is still existing, as they cannot replace the petitioners being contractual employees with another set of contractual employees and they could have only been replaced by the regular employees. More so, the work and conduct of the petitioners is to the satisfaction of the employer-Department, as evident from the certificate, which is Annexure P-5 and hence respondent No.3 is directed to decide the aforesaid representations within a period of four weeks from today onwards.

Accordingly, the writ petition stands disposed of.

(ARCHANA PURI)
JUDGE

September 14, 2020

Himanshu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No