

**CWP No. 20768 of 2016 and  
CWP No. 23647 of 2016**

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

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**CWP No. 20768 of 2016**

Date of decision : February 10, 2020

**\* \* \* \* \***

Manoj Kumar and others

.....Petitioners

Versus

The State of Haryana and others

.....Respondents

**CWP No. 23647 of 2016**

**\* \* \* \* \***

Manoj Kumar and others

.....Petitioners

Versus

The State of Haryana and others

.....Respondents

**\* \* \* \* \***

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

**\* \* \* \* \***

Present: Mr. V.B Aggarwal, Advocate for the petitioners.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

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**RITU BAHRI, J.**

Through this common judgment, two petitions bearing **CWP No. 20768 of 2016** ( Manoj Kumar and others Vs. The State of Haryana and others ) and **CWP No. 23647 of 2016** (Manoj Kumar and others vs. The State of Haryana) shall be decided as a common question of law arises

for consideration in both these petitions. For the sake of brevity and convenience, facts are being extracted from **CWP No.20768 of 2016**.

Present petition has been filed by the petitioners seeking directions to the respondents to release the salary of the petitioners with effect from 26/06/2016 till date along with all consequential benefits and interest at the rate of 12% per annum.

Briefly stated, the facts of the case, are that the Government of India launched a project for the sanitation purposes on 01/04/2012 namely “Nirmal Bharat Abhiyan” and issued the guidelines (Annexure P-1). The Government of India launched Swachh Bharat Mission on 02/10/2014 and Nirmal Bharat Abhiyan project had been merged in Swachh Bharat Mission. In view of the guidelines relating to Nirmal Bharat Abhiyan (Annexure P-1), respondent No. 4-Additional Deputy Commissioner-cum-Chief Executive Officer (DRDA) Karnal had issued an advertisement (Annexure P-3) in the month of September 2013 for appointment for the post of cluster motivator and motivator in the project known as Nirmal Bharat Abhiyan. In the year 2013, petitioners No. 1 to 9 were appointed to the post of cluster motivator and the petitioners No. 10 to 18 were appointed as motivator under the project namely, Nirmal Bharat Abhiyan now known as Swachh Bharat Mission (Gramin) on contract basis for one year on the consolidated remuneration of Rs. 10,000/- per month. Vide extension letter dated 24/11/2015 (Annexure P-22) the petitioners had given further extension on the contractual post on the same terms and conditions on which they were engaged in the earlier project for the period of another one year that is from 05/11/2015 to 30/10/2016 in the project under the name Swachh Bharat Mission. The grievance of the petitioners is that the project

continued to the year 2019 but the salary of the petitioners has not been released since 26/06/2016. Hence the present petition.

Ld. counsel for the petitioner has referred to an order passed by this court in CWP No. 17160 2013 (Darshana Devi and others versus Haryana State Social Welfare Board and others) decided on 25/05/2016, whereby the direction was given to release the salary of the petitioners who were working on the post of Bal Sevika and the salary had not been paid to them w.e.f. November 2002 to 31/03/2003. The salary was not paid to them as they were not found present when their centres were inspected by the then assistant project officer. However no enquiry had been conducted. In this backdrop the writ petition was allowed, and the direction was given to the respondents to release the payment of salary to the petitioners w.e.f. November 2002 to 31/03/2003 with interest at the rate of 6% per annum with effect from the date when the said arrears were sanctioned till its realization.

The respondents in the written statement dated 10/11/2016 have taken a stand that as per the ODF Rural Haryana Plan and Cluster approach for outcome based incentive (Award) mechanism for motivators under SBM-G who facilitate Gram Panchayats to achieve sustainable Open Defecation Free (ODF) status received vide letter No. SBM-Consultant-(HRD-IEC)-2015/Spl-4 dated 30/10/2015 at point No. 6 read as “A team of 4 motivators will be paid performance-based remuneration (award money) @ Rs. 60,000/-per cluster of approximately 5 Gram Panchayats having 2000 households for achieving ODF status out of IEC funds allotted under SBM-G that has been calculated @ Rs. 150/-per household for motivation for construction of IHHLs. The payment was to be given in 3 stages. In addition

to that up to Rs.20,000 could be spent on logistics arrangements like conducting triggering, PRA exercises, Dawn and dusk follow-ups, meetings, formation of the Nigrani Samitis etc. the motivators preferably stay in the village/GPs allocated to him/her and handhold the community till it attains ODF status. The copy of this letter has been annexed as Annexure R-19 along with the written statement. A training workshop was organized of five days residential on Community Led Total Sanitation (CLTS) approach from 21/06/2016 to 25/06/2016 and in this training workshop 147 motivators were trained along with the petitioners and they were deputed to various villages on incentive basis equal to the fresh volunteers. Letter dated 28/09/2016 (R-20) was issued vide which the contracts/MoUs of all the petitioners were terminated with effect from 26/06/2016 in accordance with the new policy of performance-based incentives. The petitioners were engaged as per individual MoUs/contracts (Annexure R-1 to R-18), wherein it was specifically mentioned that the first party i.e the Additional Deputy Commissioner-cum-chief executive officer DRDA Karnal can cancel the contract with 2<sup>nd</sup> party without assigning any reason/notice. The honorarium/remuneration for which the petitioners were entitled to as per the contracts/MoUs have already been released to the petitioners. After the termination of their contracts/MoUs with effect from 26/06/2016, the petitioners are working on voluntary basis and are getting the incentives as per the norms issued by the state government on dated 30/10/2015 regarding the Swachh Bharat Mission Gramin (SBM -G). Respondents in the written statement have also annexed (Annexure R-21), whereby remuneration of Rs. 5000/- each were released to 133 motivators as advance on 04/08/2016 in their bank accounts through RTGS. Vide Annexure R- 22, incentive money

(award) were released to only 75 out of 133 motivators including petitioners on performance basis on 26/09/2016 through RTGS. A perusal of the letter of contract (Annexure R-1) shows that the life of the contract was from 06/11/2013 to 31/10/2014. The respondents have also placed on record instructions dated 30/10/2015 (Annexure R-19). A perusal of this letter shows that in the state-level workshop on sanitation/cleanliness campaign held on 11/10/2015 at Karnal, Chief Minister Haryana had announced incentive money of Rs. 1,00,000/-for Gram panchayats attaining the status of ODF. In Clause 7, the performance based incentive money has been given and vide Annexure R-20 dated 28.9.2016 , the MOU signed between the petitioners and additional Deputy Commissioner-come-chief executive officer, DRDA Karnal has been cancelled on 04/08/2016 w.e.f. 26/06/2016 as per clause No. 11 d of the contract. Thereafter, as per letter dated 4.8.2016 (Annexure R-21) and letter dated 26.9.2016 (Annexure R-22), the incentive amount has been deposited in the account of the motivators.

The petitioners in replication are seeking the benefit of letter of contract dated 6.11.2013 (Annexure P-6) issued by the respondents, whereby Rs.10,000/- per month has been fixed as remuneration for the post on which the petitioners were appointed and their grievance is that the termination order dated 28.9.2016 (Annexure R-20) was conveyed to the petitioners very late. A perusal of Annexure R-20 shows that it is dated 28.9.2016 and the contract had been cancelled on 4.8.2016 w.e.f 26.6.2016.

Heard counsel for the parties. After going through the records of the case thoroughly, in the opinion of the Court, these petitions deserve to be dismissed. As per the evidence produced on record, the contract of the petitioners was never extended after 26.6.2016. Moreover, vide letters

dated 4.8.2016 (Annexure R-21) and letter dated 26.9.2016 (Annexure R-22) as per instructions of the letter dated 30.10.2015 (Annexure R-19), the incentive amount has already been deposited in respective accounts of the petitioners. In fact, these petitioners have not denied that the incentive amount has been deposited in their respective accounts. After accepting such amount, the petitioners should have no grievance regarding termination of their contracts. Moreover, in view of the facts and circumstances of the present case, as the benefit has already been granted as per the policy dated 30.10.2015, the petitioners have no right to be given salary w.e.f 26.6.2016.

In view of all that has been discussed above, the writ petition are hereby dismissed.

February 10, 2020  
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( RITU BAHRI )  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |