

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

C.W.P No. 3955-2015

Date of Decision:- 29.05.2020

Ravinder Panwar and ors.

...Petitioners

vs.

State of Haryana and ors.

...Respondent

CORAM:- HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Raman B. Garg, Advocate and
Ms. Geetanjali Chhabra, Advocate
for the petitioners.

Mr. Randhir Singh, Advocate
for State of Haryana

RITU BAHRI, J.

The present petition is for quashing impugned relieving orders dated 12.11.2014 (P-11 to P-13) whereby the petitioners are replaced by same set of contractual employees. Further prayer is for issuance of direction to the respondents to regularize the services of the petitioners in the respondent-department on the same pattern as their juniors were regularized as per regularization policies dated 18.06.2014 and 28.07.2014 (P-15 and P-16) on the post of Data Entry Operator etc.

The petitioners were deployed by the HARTON vide letter dated 02.08.2010 in the wake of the requisition dated 29.07.2010 (P-4) . Thereafter a joint representation was moved by all of the persons deployed by the HARTRON in the respondent department on 30.06.2014 (P-6) for regularization of their services. That the respondent department regularized the services of 10 computer professionals through its order dated

25.08.2014 and 05.09.2014 and these computer professionals include those persons who were engaged/deployed in the respondent department after the deployment of the petitioners. Copies of the order dated 25.08.2014 and 05.09.2014 are appended herewith as Annexures P-7 and P-8 respectively. However, the petitioners were not regularized in service on the ground that there would be no requirement of continuation of the aforesaid agency after dropping of the aforesaid Central Government Scheme by the government of India. Through the aforesaid letter was never issued to the petitioners; however, the petitioners could be able to obtain a copy thereof and the same is being annexed herewith as Annexure P9. Thereafter the petitioners were relieved vide separate letters dated. 12.11.2014 (P-11 to P-13).

On notice of this petition, a written statement has been filed on behalf of respondent No. 1 and 2 stating therein that HARRIDA is not regular state government department but is registered under the Societies registration act. 1860 in 2008 as an agency created only for implementation of the PMGSY Schemes sponsored by the Government of India. There are no regular sanctioned post in HARRIDA. The petitioners are on job work basis on the request of HARRIDA/PMGSY vide memo No. 2806/PMGSY dated 29.07.2010 (Annexure R-3). HARTRON recommended the name of the petitioners for HARRIDA/PMGSY vide letter dated 02.08.2010 (Annexure R-4). The petitioners were engaged against temporary post created on the creation of HARRIDA and these posts will abolish on abolition of HARRIDA. It is specifically stated that the petitioners were never engaged by PWD (B&R) Department. The Regularization Policy of 2014 of the Government of Haryana is not applicable to the petitioners as they were never engaged by any Government Department/Board/

Corporation and their engagement was not against the sanctioned post.

Similarly, a written statement has been filed on behalf respondent No. 3 stating therein that The Service of only those Computer Professional had been regularized under Regularization Policy of 2014 who were deployed in the Public Works (B&R) Department against sanctioned posts only. Therefore the services of the petitioners cannot be regularized as they do not fulfill the requirements of the Regularization. The name of the petitioners have been rejected by the government for regularization of their services on the ground that HARRIDA is a temporary agency. It has been admitted that services of other 3 employees (R 3) were taken from PWD (B and R) department as a stop gap arrangement. Their Salaries were paid by PWD (B and R) department itself. Later the services of above 3 employees had been withdrawn from HARRIDA vide order dated 2 July 2015 and they were posted back to PWD (B and R) department.

Thereafter petitioner filed replication stating therein that it is wrong that petitioners were never directed to work in the respondent department from time as per its convenience during their entire period of service by the officers of the respondent department nor they were ever worked in the respondent department. The petitioner No 2 had worked at NABARD cell of the respondent-department from 14.07.2011 to 06.12.2014. Orders of the petitioner No. 2 dated 14.07.2011 and 07.12.2014 are appended herewith as Annexure P-17 and P-18 respectively. Further one Narinder Singh who had worked in the NABARD cell of the respondent department, was regularized in service vide order dated 05.09. 2014 (Annexure P- 8). The respondent department engaged new person in March 2015 and thereafter, the respondent department had withdrawn those person

in July, 2015 as per letters dated 18/19.03.2015 and 06.04.2015 (P-19 and P-20) respectively.

Heard

The short question in the present writ petition is that the petitioners who had been appointed in Haryana Rural Roads and Infrastructure Development Agency which is a registered society under the societies Registration Act, 1860, can be regularized or not. This agency has been created for implementation of Pradhan Mantri Gram Sadak Yojana (in short PMGSY).

The respondents have taken stand in the written statement that the society which is registered under the Societies Registration Act is not a state Government Department and is a central sponsored scheme and the wages are not paid through state Exchequer. Hence regularization policy of 2014 of State of Haryana is not applicable. They have further referred letter dated 02.08.2010 (Annexure R-1) whereby payment has been released to the employees working in the agency of Harton Informatics Limited . In this letter reference has been made to memo no. 2806/PMGSY dated 29.07.2010 which itself shows that the employees are working under PMGSY.

The claim of the petitioners has been denied only on the ground that they do not fulfill the condition of regularization policy. The petitioners were never engaged by any Government Department/ Board/ Corporation and their engagement was not against sanctioned post.

The case is now to be examined whether the petitioners fulfill the conditions of regularization policy or not. The condition reads as under:-

1. *The State Government vide its letter dated 7th November, 2013 had changed the nomenclature of the post of Clerk-cum-*

Computer Operator, Office Associate, Clerk-cum Data Entry Operator, Data Entry Operator and Clerk-cum-Typist etc. To that of Clerk. Thus, when a Data entry Operator/computer Professional etc. was engaged and the sanctioned vacant post of Clerk was available at the time of his/her engagement and is also still available as on 28.05.2014, he/she can be considered for regularization against such post of clerk subject to his/her fulfilling the other conditions of the policy.

2. The contractual service rendered by the person from one department to the department on the same category of post will not be counted for the total required period of three years service for regularization.

3. The break in service of an employee/worker will be condoned only upto a period of 30 days in a year provided that he same is not due to the fault of the employee like abandonment of employment.

4. The person engaged through Employment, Exchange, HARTRON or constituting Department Selection Committee is eligible for regularization. The person engaged through private Service Provider in the Department (s) even against vacant post cannot be considered for regularization.

A bare perusal of above conditions shows that petitioners are eligible for regularization of their services, as the petitioners were engaged through employment exchange and have worked for more than 3 years as on 28 May 2014. Thus the case of petitioners can not be rejected only on the ground that they do not fulfill the conditions. Vide orders dated 25.08.2014 and 05.09.2014 (P-7 and P-8), the respondent department regularized the

service computer professionals who were engaged/deployed in the respondent department after the deployment of the petitioners. Hence for all intents and purposes, the services of the petitioners should have been regularized as has been done in the cases of computer professional. The department at this stage cannot turn around and say that petitioners were working under central sponsored scheme.

In view of the above, the writ petition is allowed and respondents are directed to regularize the services of the petitioners and petitioners are entitled to all consequential benefits.

29.05.2020

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No