

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

CWP-15492-2021

Date of Decision:-25.8.2021

Swaranjeet Singh Sidhu and others

... Petitioners

Versus

Union of India and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Madan Pal, Advocate
for the petitioners.

Mr. Anil Chawla, Advocate
for respondents No.1 to 3.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The petitioners have filed this writ petition under Article
226/227 of the Constitution of India, in the nature of Certiorari, for quashing
the order dated 8.11.2019 (Annexure A-1) passed by respondent No.3, order
dated 7.11.2019 (Annexure A-2) passed by respondent No.4 and order dated
18.5.2021 (Annexure P-3) passed by respondent No.10 being illegal, unjust

and arbitrary. The petitioners have also sought direction to the respondents by way of Mandamus, to allow the petitioners to continue in service as Programme Coordinators for the remaining period of three years from the date their services were illegally terminated by respondent No.4 or till the completion of the project and alternatively to direct respondents No.3 and 4 to pay them salary and other allowance along with interest at the rate of 18% per annum for the such remaining period.

The case of the petitioners is that respondent No.3-Nehru Yuva Kendra Sangathan is an autonomous body of Government of India and is headed by respondent No.2-Chairman, Board of Governing Body, Nehru Yuva Kendra Sangathan. Different posts were lying vacant in various Nehru Yuva Kendra Sangathans through out the country. Accordingly, respondents No.2 and 3 engaged respondent No.4-Broadcast Engineering Consultants India Ltd. (in short 'BECIL) for recruitment of Programme Coordinators in Nehru Yuva Kendras across the country. Respondent No.4 issued advertisements dated 9.3.2018 and 9.4.2018. In response to the same, the petitioners applied for the posts of Programme Coordinators. The tenure of the appointments as per the aforesaid advertisement was initially for three years. The petitioners appeared in the written test followed by interview and they cleared the same. The petitioners were finally selected for the posts of Programme Coordinators and they joined their duties. The term of their appointment was extended upto 31.10.2019 vide letter dated 4.4.2019 (Annexure A-12) sent by Deputy Director (Personnel) of respondent No.3 to respondent No.4. Later on services of the petitioners were terminated w.e.f.

31.10.2019 (vide order Annexure A-14). The petitioners submitted representations against the said order of termination but the same were declined by the concerned authorities vide order dated 8.11.2019 (Annexure A-1) and order dated 7.11.2019 (Annexure A-2). Against the aforesaid termination order, the petitioners approached respondent No.10-Central Administrative Tribunal, Chandigarh Bench (in short 'the Tribunal') through Original Application (in short 'O.A') No.60/1237/2019.

The O.A. filed by the petitioners was contested by the respondents before the Tribunal. Respondents filed written statement in which it was pleaded that the respondents No.2 and 3 hired respondent No.4 for supply of 300 Programme Coordinators in Nehru Yuva Kendra Sangathans. On this respondent No.4 advertised the aforesaid posts of Programme Coordinators, who were to be employed purely on contract basis. On completion of selection process, the petitioners were appointed as Programme Coordinators for a period from the date of joining till 31.3.2019 or till the duration of project whichever was earlier. In their written statement, the respondents further pleaded that in the meantime process for recruitment of District Youth Coordinators on regular basis was initiated through Institute of Banking Personnel Selection. The said process has been completed and most of the candidates selected on regular basis have joined their duties. The regular incumbents have replaced the petitioners who were engaged as a stop-gap arrangement on contractual basis. Respondents prayed for dismissal of the O.A. moved by the petitioners.

The petitioners filed rejoinder to the written statement filed by the respondents.

After hearing the counsel for the parties, the Tribunal dismissed the claim of the petitioners vide impugned order dated 18.5.2021 (Annexure P-3) with the following observations:

“29. In view of all above, we are of the clear opinion that the applicants have no case whatsoever. They were never directly engaged by the Sangthan. Their terms of engagement was nowhere mentioned as 3 years – neither in the advertisements dated 9.3.2018 and 9.4.2018 nor in their deployment letters. Rather, Clause 1 of their engagement letter clearly states that their contract was only upto 31.3.2019 or till the duration of the project, whichever is earlier. Having accepted these terms of engagement, the applicants are obliged to abide by them and cannot be allowed to turn around and claim benefits which are directly in violation of these terms of engagement. The issues raised by the applicants regarding tough selection process, high registration fee, payment of TA/DA and transfer cannot be used to modify or deviate from the terms of contract. All these may have been with the purpose of attracting better talent to ensure better discharge of the functions of the Kendras. The fact is also that the process for regular recruitment of District Youth Coordinator was initiated and has been completed. Most of them have already joined. As the applicants have been replaced by regularly recruited persons no case is made out for their continuance.

30. We have also perused the impugned orders very carefully. We find that these are based on facts and are logical and well-reasoned and have been passed after due application of mind. These are as per the law laid down by Hon'ble Apex Court in the case of Uma Devi (supra). We, therefore, do not find any reasons, whatsoever to interfere with the same.

31. In view of all above, the O.A. is found to be devoid of any merit. It is dismissed accordingly.

32. There shall be no order as to costs.”

Being aggrieved by the aforesaid order, the petitioners have filed the present writ petition on the ground that all the impugned orders are totally illegal and arbitrary being passed in violation of the terms and conditions of contract of employment which provided minimum period of their tenure as three years.

We have heard the counsel for the petitioners and respondents No.1 to 3.

Counsel for the petitioners submitted that the petitioners were engaged as Programme Coordinators across the country by respondents No.2 and 3 for a minimum period of 3 years. The petitioners joined their duties in October, 2018 and their services were abruptly terminated w.e.f. 1.11.2019, in contravention of terms and conditions of the contract. The learned counsel further argued that the aforesaid termination orders are totally illegal as they were passed before the expiry of initial contract period of three years, without affording any opportunity of hearing to the petitioners. Further, the

counsel for the petitioners while referring to decision of the Division Bench of Delhi High Court in W.P.(C) 1741 of 2014 and C.M. No.3645 of 2014 titled as Narinder Singh Ahuja and Others vs. Secretary, Ministry of Health and Family Welfare and Others decided on 3.11.2014 contended that the project under which the petitioners were engaged, is still going on and as such, the petitioners could not be removed till the duration of the project is over.

The counsel for the petitioners next contended that in the present case the petitioners were not replaced by regular incumbents and on this sole ground their termination orders are liable to be set aside. The counsel for the petitioners while referring to Hargurpratap Singh vs. State of Punjab & Others, 2007(13) SCC 292, submitted that the petitioners should be continued in service till regular appointments are made. The counsel for the petitioners further argued that as in the present case, the petitioners were removed before the expiry of the contract period of three years, they are entitled to get salary for the remaining period. The last limb of submission of learned counsel for the petitioners is that the Tribunal rejected the claim of the petitioners without giving any plausible reasons.

On the other hand, the counsel for respondents No.1 to 3 submitted that there was nothing on the record to show that the petitioners were engaged on contract basis for a minimum period of three years. It was further contended that there was no relationship of employer and employees between the Government and the petitioners. The learned counsel for respondents No.1 to 3 further contended that the contesting respondents took

specific stand before the Tribunal that the petitioners being contractual employees were replaced by the regular appointees. The learned counsel further argued that the services of the petitioners were terminated in accordance with law and there is no illegality in the impugned orders.

We have considered the rival contentions raised by the counsel for the parties.

It is the admitted case of the petitioners that they were engaged as Programme Coordinators on contract basis and their services were terminated w.e.f. 1.11.2019.

From the perusal of agreement dated 26.3.2018 (Annexure P-9), it appears that respondents No.2 and 3 executed contract with respondent No.4 for supply of 300 Programme Coordinators. On the basis of the said contract respondent No.4 gave advertisement in the newspaper for recruitment of Programme Coordinators purely on contract basis for deployment in the field offices of Nehru Yuva Kendra Sangathans located all over the India. In the said advertisement, it was nowhere mentioned that minimum contractual period of employment was three years. Admittedly, the petitioners applied for the aforesaid posts and were selected.

The petitioners who accepted the contractual appointment, are bound by the terms and conditions of their appointment as detailed in their appointment letters, as has been held by the Hon'ble Apex Court in **State of Maharashtra and Others vs. Anita and Another, 2016(3) SCT 692.**

Annexure A-6 dated 11.10.2018 is one such appointment letter. As per the said appointment letter, the contract was initially for a period from the date of joining till 31.3.2019 or till the duration of the project, whichever was earlier. The appointment letter also provided that the contract could also be terminated by either side by giving 15 days notice in writing or on payment of equivalent fee in lieu thereof. From the perusal of the appointment letter, there is no doubt regarding the fact that the petitioners were appointment as Programme Coordinators purely on contract basis by respondent No.4, to be deployed in Nehru Yuva Kendras.

As per Annexure A-12 dated 4.4.2019, the original agreement executed between respondent No.3 and respondent No.4 was extended upto 31.10.2019. But the said agreement was not further extended. On this respondent No.4 issued notice dated 19.8.2019 (Annexure A-14) informing all the contractual employees that their services shall stand terminated w.e.f. 1.11.2019. So in this case, 15 days prior notice in writing was served on the petitioners by respondent No.4 as per the requirement of the appointment letter (Annexure A-6). The petitioners failed to produce any document which reflects that the minimum period of their contractual employment was three years.

The plea taken by the petitioners that they are being replaced by another *ad-hoc* arrangement, is unsustainable. The respondents in their written statement clearly pleaded that the process for regular recruitment was initiated and has been concluded and most of the regular appointees have already joined. Even from communication dated 5.8.2019 (Annexure A-8),

it could easily be made out that at the relevant time, regular recruitment was under process and it was intimated that services of all outsource staff are to be terminated on 30.9.2019. In these circumstances the Tribunal rightly observed that as the petitioners (applicants therein) have been replaced by regularly recruited persons, no case is made out for their continuance. In Hargurpratap Singh's case (supra), the Hon'ble Apex Court held that contractual employees cannot be replaced by same set of arrangement and should be replaced only by regular appointees. We are of the view that the law laid down by Hon'ble Apex Court in Hargurpratap Singh's case (supra) is of no assistance to the petitioners, as it stands proved that in the present case, the petitioners (contractual employees) are being replaced only by regular incumbents.

Further it stands proved on the record that respondent No.4 engaged the petitioners on contractual basis for their deployment in Nehru Yuva Kendra Sangathans. The petitioners have failed to demonstrate that they were engaged for execution of some particular project. It appears on the record that the petitioners were engaged as a stop-gap arrangement till the appointment of regular employees. So, their case is not covered by judicial pronouncement in Narinder Singh Ahuja's case (supra).

In the wake of the above, we are of the view that the impugned orders dated 8.11.2019 (Annexure A-1) and dated 7.11.2019 (Annexure A-2) were passed by the concerned authorities as per the provisions of law. Further, we are in agreement with the impugned order dated 18.5.2021 (Annexure P-3) passed by the Tribunal.

Consequently, the present writ petition is dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

25.8.2021
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No