

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

CWP-17752-2021(O&M)

Date of decision:-15.12.2021

Amit and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Vikram Sheoran, Advocate
for the petitioners.

Mr.B.R. Mahajan, Sr.Advocate with
Ms.Nikita Goel, Advocate and
Mr.Kuldeep Tiwari, Advocate
for the respondents.

Ms.Shubhra Singh, Addl.A.G., Haryana.

H.S. MADAAN, J.

1. The petitioners have brought the instant civil writ petition under Articles 226/227 of the Constitution of India seeking quashing of order dated 13.8.2021 Annexure P8 vide which the respondents want to replace contractual employees by another set of contractual employees, which according to them is not permissible in terms of judgment

Hargurpratap Singh Versus State of Punjab and others, 2007(13) SCC 292 and *Monika Kadyan and others Versus State of Haryana and others* passed by this Court in CWP No.2324-2010.

2. According to the petitioners, they were appointed as Technical Assistant on contract basis under outsourcing Policy-I, Government of Haryana on 16.6.2019 and thereafter they continue to work as such; on 15.3.2021, a complaint was received from Sh.Aditya Bajwan through E-mail; in that complaint allegations of committing fraud running into crores of rupees were levelled against Mahender Singh Payal of Fatehabad for fake seed supply; there was no allegations against the petitioners; the complaint was got inquired into.

3. Nevertheless the petitioners were served with show-cause notice that they were also involved in the scam; they submitted reply to the show-cause notice pleading their innocence. However, without taking into consideration their replies vide order dated 25.6.2021, respondent No.2 - Managing Director, Haryana Seeds Development Corporation (hereinafter referred to as HSDC), Panchkula dispensed with services of the petitioners from that very date and they were accordingly relieved from their duties. The petitioners had approached this Court by filing CWP No.12275 of 2021 challenging that order. On getting notice, respondents had appeared through counsel. Learned Senior counsel had made a statement that services of the petitioners were not needed and the impugned order wherein certain facts had been mentioned be treated as no longer in existence. In view of the statement, counsel for the petitioner had withdrawn the writ petition with liberty to submit a representation.

The representation was accordingly submitted. However, the petitioners were not allowed to continue in service after 25.6.2021 and now the respondents intend to replace the service of petitioners by another set of contractual employees, giving rise to a cause of action to file the instant writ petition.

4. Notice of the writ petition was given to respondents, who put in appearance through their counsel.

5. I have heard learned counsel for the parties besides going through the record and I find that the present writ petition is devoid of any merit and is doomed for failure.

6. As far as judgment *Hargurpratap Singh* (surpa) on which the petitioners are relying upon in support of their contention that a contractual employee cannot be replaced by another contractual employee, that does not mean that if the work and conduct of the contractual employee is not satisfactory, even then the employer is under compulsion to retain such employee in service. In the present case, on receipt of complaint, the matter was got probed, show-cause notices were issued to the petitioners being involved in the scam to which they had submitted reply and thereafter the contract of the petitioners was not extended. If an employer does not extend the contract period of the employee then most of the times, there is element of not satisfaction with the work and conduct of such employee, though that may not be clearly mentioned in the order for non-grant of further extension in service. That factor cannot be exaggerated and blown out of proportion so as to term it as stigmatic in nature. The petitioners do not have any vested right for

continuation in service that rather depends upon their performing duties up to the satisfaction of their employer, which in this case was not there. Even otherwise, no stigmatic order has been passed while not extending the contract period of the petitioners.

7. As far as the contention of learned counsel for the petitioners that some employees juniors to the petitioners have been retained in service, again I do not find this argument to be worthy of any attention. Seniority list of only regular employees is prepared and not of employees on contractual basis. If the employer finds the work and conduct of any particular employee to be satisfactory, then he can be allowed continuance in service, whereas services of the employees not working properly in a satisfactory manner can be dispensed with. That cannot be termed as policy of hire and fire or an act motivated by any prejudice or vendetta. If services of some employee are terminated without any rhyme or reason in an arbitrary manner, then such type of allegations may be subjected to judicial review but not when an employer refuses to re-hire an employee, whose work and performance was not found proper and satisfactory. Therefore, the judgment Hargurpratap Singh (supra) is not helpful to the petitioners in any manner.

8. Learned counsel for the petitioners has referred to judgment passed by a Single Bench of this Court in CWP-19281-2018 titled **Rashmi Sharma Versus Mewat Development Agency and others.** However, facts of that case were quite different inasmuch as employee working on contractual basis was terminated by placing reliance upon some reports submitted by Principal, Mewat Model School, which she

was confronted. It was observed that respondents in such circumstances were required to find veracity and genuineness of the alleged complaint/allegations. In this case, on receipt of complaint, the matter was got inquired into, show-cause notice was issued to the petitioners, their response thereto was obtained and then it was decided not to extend their contract period. Even otherwise, the language used in the orders challenged in the first civil writ petition, which were alleged to be stigmatic, no longer has any relevance with the orders in question being withdrawn. Therefore, this judgment is not helpful to the petitioner.

9. In judgment **State of Maharashtra & Ors. Versus Anita & Anr. Etc.** passed by the Apex Court in Civil Appeal Nos.6132-33 of 2016 arising out of SLP(C) Nos.34788-34789 of 2012, while dealing with a matter of contractual appointments, the Apex Court had observed that once the terms and conditions of appointments providing for contractual ad hoc appointment, were accepted, the appointees cannot question the validity thereof and claim that the appointments were regular in nature.

10. Under the circumstances, the petition is bound to fail and is dismissed accordingly.

15.12.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No