

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

CWP-23722-2021(O&M)

Date of decision:-15.12.2021

Rajiv Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

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

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

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 petitioner has brought the instant civil writ petition under Articles 226/227 of the Constitution of India seeking quashing of order dated 13.8.2021 Annexure P10 vide which the respondents want to

replace contractual employees by another set of contractual employees, which according to him 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 petitioner, he was appointed as Assistant Seed Production Officer (hereinafter referred to as ASPO) on contract basis under outsourcing Policy-I, Government of Haryana on 20.12.2017 and thereafter he continued to work on contract basis; 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 allegation against the petitioner; the complaint was got inquired into.

3. Nevertheless the petitioner was served with a show-cause notice that he was also involved in the scam; he submitted reply to the show-cause notice pleading his innocence. However, without taking into consideration his reply 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 petitioner from that very date and he was accordingly relieved from service. The petitioner had approached this Court by filing CWP No.12206 of 2021 challenging that order. On getting notice, respondents had appeared through counsel. However, learned Senior Counsel appearing for the respondents had submitted in that writ petition that the impugned order be

treated as withdrawn and as the term of the services of the petitioner, keeping in view the contract, had already expired and as per statement made by him in case the petitioner had any claim for salary or any other admissible monetary benefit for any period before the expiry of that contract then he could file a representation, which would be considered and in case any salary or other monetary benefit was yet to be released, the same would be released. 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 petitioner was not allowed to continue in service after 25.6.2021 and now the respondents intend to replace the services of petitioner by another contractual employee, giving rise to a cause of action to the petitioner 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 one 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 continue 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 petitioner and other allegedly involved in the scam to which they had submitted replies and thereafter the contract of the petitioner and other such persons were 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 petitioner does not have any vested right for continuation in service that rather depends upon his performing duties up to the satisfaction of his employer, which in this case was not there. Even otherwise, no stigmatic order has been passed while not extending the contract period of the petitioner.

7. As far as the contention of learned counsel for the petitioner that some employees juniors to the petitioner 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 find the work and conduct of any particular employee to be satisfactory, then he can be allowed continuance in service, whereas service 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 appropriate. Therefore, the judgment Hargurpratap Singh (supra) is not helpful to the petitioners in any manner.

8. Learned counsel for the petitioner 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 petitioner, his response thereto was obtained and then it was decided not to extend his 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 writ 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