

222

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17589-2013
Date of decision: 29.11.2022

GURINDER SINGH AND ANOTHER

...Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. H. P. S. Ghumman, Advocate
for the petitioners.

Mr. Mohit Kapoor, Addl. A. G., Punjab.

Mr. Vikas Singh, Advocate
for respondents No.3 to 6.

Mr. J. S. Toor, Advocate
for respondents No.7 to 10.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ, order or direction in the nature of mandamus directing respondents No.3 to 6 to consider the name of the petitioners herein for appointment in respondent No.3-Sugar Mill with all consequential benefits.

2. In brief, the facts as pleaded are that the petitioners and respondents No.7 to 10 were working in respondent No.3-Sugar Mill on daily

wage basis and their names were reflected in the seniority list as issued on 30.03.1991 (Annexure P-1). Services of the petitioners and some others were terminated by respondent No.3-Sugar Mill. The private respondents No.7 to 10, who were also engaged as seasonal workers in respondent-Sugar Mill approached the Labour Court, Patiala by raising an industrial dispute against their retrenchment. The Presiding Officer, Labour Court, Patiala vide order dated 12.01.1994, dismissed their claim for reinstatement against which, a writ petition was filed i.e. **CWP No.3397 of 1994**, titled as **Karamjit Singh and others versus The Presiding Officer, Labour Court, Patiala and others**, which was also dismissed on 12.09.1996. The said judgment took note of the fact that the petitioners therein did not work through out the year and worked only during the crushing season and that too for a short period. It was further noticed that the petitioners therein did not work for more than 240 days in a year and, therefore, did not find any favour in the order as passed by the Presiding Officer, Labour Court, Patiala. However, while dismissing the said writ petition, the Coordinate Bench referred to the orders passed by the Supreme Court in Civil Appeal Nos.8058-60 of 1995 dated 25.08.1995, pertaining to work done seasonally while upholding that the workers were doing seasonal work. It was stated that the termination orders at the end of the season could not be said to be retrenchment of the workers. However, the appellants therein were directed to maintain a register for all workmen engaged during the seasons and when the new season starts, the appellants would engage the petitioners in accordance with their seniority and exigency of work. Similar orders were passed by a Coordinate Bench in *Karamjit Singh's case (supra)* directing the respondent Sugar Mills to maintain register for all seasons and when the new

seasons starts, to engage the petitioners therein in accordance with their seniority and exigency of work.

3. Learned counsel for the petitioners would submit that respondents No.7 to 10 have been appointed without adhering to the seniority and, therefore, the petitioners herein seeks parity with them. He would submit that the posts are still lying vacant with respondent No.3-Sugar Mill and the petitioners are fully eligible for the job.

4. Pursuant to notice of motion having been issued, reply on behalf of all the three sets of respondents have been filed, in which a categorical stand has been taken that the petitioners herein had worked up till the year 1991 and, thereafter, were not employed nor did they come back with a request to work. It is stated that the petitioners cannot take any benefit of the orders as passed in *Karamjit Singh's case (supra)*, considering the fact that they have not worked with the respondent-Sugar Mill after 1991.

5. I have heard learned counsel for the parties and with their able assistance have gone through the pleadings of the case.

6. I find that that the instant writ petition is devoid of any merit. The petitioners herein had stopped working with the respondent-Sugar Mill as far back as in 1991 and there is nothing on the record to show or establish that the petitioners had been approaching the respondent No.3- Sugar Mill for being taken back in service. No doubt, there are directions issued to the respondent-Sugar Mill to maintain the register of all workmen and call them back in terms of their seniority and exigency of work for seasonal work available with the respondent-Sugar Mill, but this Court would only be able to interfere if the petitioners herein are able to establish that they were on the seniority list that

was directed to be maintained after the orders were passed in September, 1996.

7. Other than sending a legal notice to the respondents No.4 to 6 dated 10.06.2013 (Annexure P-5) claiming that the register is not being maintained in terms of the orders passed and filing the present writ petition, the petitioners herein have failed to establish that they were on the seniority list as directed to be prepared and maintained, in terms of the judgment rendered in *Karamjit Singh's case (supra)*.

8. Consequently, the writ petition fails and is dismissed.

29.11.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No