

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

CWP NO. 15996 OF 2020

DATE OF DECISION : 22.03.2022

Archana and others

...Petitioners

Versus

Nishant Kumar Yadav

...Respondent

CWP NO. 17434 of 2020

Lal Chand

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. R. K. Malik, Senior Advocate with
Mr. Varun Veer Chauhan, Advocate,
for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Anish Yadav, Deputy Commissioner in person.

ARUN MONGA, J. (ORAL)

Vide this common order, I intend to dispose of the afore
mentioned two writ petitions, as common issues and facts are involved
therein. For brevity, the averments are recited from CWP No. 15996 of
2020.

2. Petitioners are before this Court seeking issuance of a writ in
the nature of certiorari, seeking quashing of order dated 20/25.09.2020
(Annexure P-7), whereby services of the petitioners were terminated with
effect from 30.09.2020. They inter alia allege that despite seven

sanctioned posts of Clerks still lying vacant, their services have been dispensed with in violation of the applicable administrative instructions.

3. Limited grievance that emerges thus is that services of the petitioners could not have been summarily terminated, depriving them of their livelihood, as they have been serving continuously since 2015, even if it is on contract.

4. They further allege that ostensible reason assigned in the impugned termination order is that in view of the regular appointees, on the post of Clerk on which the petitioners were serving, having been recommended by the Haryana Staff Selection Commission, petitioners being contractual employees have to make way for the regular appointees.

5. Per contra, learned senior counsel vehemently relies on the administrative instructions dated 06.11.2020 (Annexure P-9), relevant whereof is reproduced herein below :

“2. This matter has been examined by Government and it has been decided that wherever the post of Clerk is still lying vacant in the Head office or field offices, due to promotion or creation of posts or otherwise, they may be adjusted against such posts until regular appointment is made against such posts. The requisition for such vacant posts should also be sent to the HSSC for recommendation of candidates against vacant posts.”

6. On a Court query, learned State counsel, on instructions from Mr. Anish Yadav, Deputy Commissioner, who is present in Court in person, does not controvert that the aforesaid instructions still hold the field and have neither been withdrawn nor superseded. Posts are clerks are also lying vacant.

7. In the premise, on that short ground alone, I see no reasons as to why the petitioners be not given the benefit of aforesaid instructions, since it is

a conceded position that four posts of Clerks as on today, from direct quota, are lying vacant. Though it is controverted by learned counsel for the petitioners that not four but actually five posts are lying vacant, as more specifically borne out from Annexures P-12 to P-16 recited in the affidavit dated 22.11.2021, filed by one of the petitioners i.e Kavita.

8. Be that as it may, the writ petition is disposed of with an expectation that the respondents, particularly respondent No.3-Deputy Commissioner, who is present in Court, would allow the petitioners to continue in service on contract basis in terms of the instructions *ibid*. Subject of course, to the number of vacancies of Clerks on direct quota lying vacant as on today. Whether or not four or five posts, the respondents shall verify the same and give benefit of restoration of their services to the senior most petitioners in accordance with their contractual length of service rendered in past. Needful be done within a period of two weeks from today. For the period they remained out of service, petitioners shall not be entitled to any monetary benefits on the principle of no work no pay.

9. Needless to say, that mere restoration of services of the petitioners on contractual basis by virtue of instant order would not render any special equity and/or right on them to claim regularization and/or to continue in perpetuity. Same being merely an *ad hoc* arrangement in terms of the instructions *supra*, until regular appointees become available for appointment on the said posts.

MARCH 22, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No