

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

CWP No.19305 of 2020

Date of Decision: 11.05.2022

Sandeep Kumar and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Shashank Shekhar Sharma, Advocate,
for the petitioners.

Mr. Pankaj Middha, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioners herein, *inter alia*, seek quashing of orders dated 30.09.2020 (Annexures P-4 and P-5), whereby sanction qua the posts in question has been withdrawn with effect from 01.10.2020. Further issuance of writ in the nature of mandamus directing the authorities to issue fresh appointment letters to them on the posts of Record Keeper (Clerk). Prayer has also been made to pay them salary from May, 2020 till date.

2. Petitioners were appointed on contract basis under the outsourcing policy dated 06.04.2015 (Annexure P-6). Vide impugned orders dated 30.09.2020 (Annexures P-4 and P-5), services of the petitioners were dispensed with, allegedly against the advisories dated 23.03.2020 and 06.11.2020 (Annexures P-9 and P-10 respectively).

3. Learned counsel for the petitioners submits that aforesaid instructions were issued keeping in mind the extenuating circumstances

caused by COVID-19. In view thereof, various departments in the State were instructed not to terminate the services of outsourced employees/workers hired on contract. Notwithstanding, the respondents have arbitrarily dispensed with the services of petitioners despite the fact that they had rendered over five years and two years respectively of continuous service on the post in question.

4. Learned State counsel though does not dispute the factual assertion as noted herein above, but submits that it is a settled position in law that mere length of service on contract does not give a vested right to an employee to be given priority over the regular appointees. He submits that once regular appointments have been made, the contractual employees have to make way for them. Since in any case, the petitioners were at liberty to compete for the regular appointment which in case they participated and have been unsuccessful, in any case disentitles them to continue on contract. Conversely, he argues that in case petitioners chose not to participate in the regular appointment, they still would do so at their own peril.

5. I have heard rival contentions of learned counsels and have perused the contents of the writ petition.

6. Controversy involved in the present case was dealt with by me on an earlier occasion in CWP No.19289 of 2020 titled “Amit Sharma v. State of Haryana and others” decided on 10.05.2022, relevant part whereof is reproduced herein below, for ready reference :

“4. I have heard rival contentions of learned counsels and have perused the contents of the writ petition vis-à-vis corresponding response given by the respondents. It is borne out from the record that there are total 37 sanctioned posts

of Clerks in the office in question and the detailed break up of which is as under:

<i>Sr. No.</i>	<i>Clerk Post details</i>	<i>Sanctioned strength</i>	<i>Filled up posts</i>	<i>Vacant posts</i>
<i>1</i>	<i>Kaithal Circle Office</i>	<i>9</i>	<i>8</i>	<i>1</i>
<i>2</i>	<i>PD-2, Kaithal</i>	<i>7</i>	<i>6</i>	<i>1</i>
<i>3</i>	<i>PD-1, Kaithal</i>	<i>7</i>	<i>6</i>	<i>1</i>
<i>4</i>	<i>PD, Jind</i>	<i>7</i>	<i>5</i>	<i>2</i>
<i>5</i>	<i>PD, Narwana</i>	<i>7</i>	<i>6</i>	<i>1</i>
	<i>Grand Total</i>	<i>37</i>	<i>31</i>	<i>6</i>

5. *Concededly, out of the six posts which have remained vacant, only three persons are currently working on contract through an outsourced agent, leaving just three more posts which are currently vacant. In the short affidavit dated 26.02.2021 filed by Mr. Varun Kansal, Executive Engineer, Kaithal, he has deposed that currently there is no work requirement on the remaining three vacant posts of Clerks and therefore, merely to accommodate the petitioner, State cannot be put under financial burden without there being any requirement of the posts to be filled up. I am in agreement with the stand taken by the respondents in the short affidavit.*

6. *In the premise, no ground for interference by this Court is made out. However, the writ petition is disposed of with observations that in case in future there is any requirement on the said three vacant posts, the petitioner shall be given preference on the principle of 'first come last go' by keeping in mind the length of service rendered by him in past."*

7. In the aforesaid premise, instant writ petition is disposed of in terms of order passed CWP No.19289 of 2020,*ibid*.

MAY 11, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No