

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 19.09.2022
1. CWP-28379-2018 (O&M)

DINESH KUMAR AND OTHERS	versus	...Petitioners
STATE OF HARYANA AND OTHERS		...Respondents

2. CWP-15653-2019

NAVNEET KUMAR	versus	...Petitioner
STATE OF HARYANA AND OTHERS		...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr.ManojChahal, Advocate,
for the petitioners.

Mr. R.K.S. Brar, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

1. Vide this common order, I intend to dispose of aforesaid two writ petitions as similar facts and issues are involved therein. Facts are being taken from CWP No.28379-2018.

2. Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing the respondents to grant the minimum of pay scale to the petitioners for the post of Data Entry Operators/Clerks in view of Instructions dated 03.11.2017 issued by Govt. of Haryana on the principle of '*Equal Pay for Equal Work*'.

3. Learned State counsel, under instructions, submits that after completion of process of regular appointments, regular incumbents subsequently became available and they have been appointed on the same very posts on which the petitioners were working on contract.

4. In fact, the same has also been specifically stated in sub paras (h) and (i) of para 2 of the preliminary submission of the written statement, which are reproduced hereinbelow:

“h. That in third part of the civil writ petition, the petitioners have claimed the relief of seeking restrain order against the respondents that their services be not discontinued. In this regard, it is once again mentioned at the cost of repetition that the claim of the petitioner No.5 already stands infructuous with his own application dated 31.05.2018 (Annexure R-1). Insofar as the claim of petitioners No.1 to 4 are concerned, it is further submitted that a strength of 30 nos. of posts of Clerks, having same nomenclature as that of a Data Entry Operators was authorized by the Engineer-in-Chief, Haryana Irrigation Department Panchkula Letter No.31732/4EG-1/2007 dated 02.11.2007 and the same were further distributed in the following manner:-

Sr. No.	Office Name	No. of sanctioned posts
1.	Yamuna Water Services Circle Bhiwani	6
2.	Bhiwani Water Services Division Bhiwani	6
3.	Siwani Water Services Division Bhiwani	6
4.	Jui Water Services Division Bhiwani	6
5.	Lift Water Services Mech Division Bhiwani	6
	Total	30

It is pertinent to mention here that the Haryana Staff Selection Commission has recruited as many as 24 Clerks whereas 6 candidates already working within the department have been promoted to the post of Clerk thereby fulfilling all the 30 vacant posts of Clerk.

i. That in the manner stated above, against the total number of available posts of 30 regular Clerks/Data Entry Operators, 30 numbers of incumbents have been given appointment (24 by fresh recruitment and 6 by way of promotion) and have joined their respective stations, leaving not even a single post vacant.

*As such, as per the contract of the petitioners entered with the department in respect of their contractual engagement, their services are no longer needed. The true typed copy of the List of Incumbency of Clerk Establishment as on 31.12.2018 is **Annexure R-4.**”*

5. In the premise, nothing survives for adjudication before this Court.

6. Trite it is to say, the contractual employee has no right to continue in perpetuity, of course, he is at liberty to compete for the regular appointment which option, in case, the petitioners did not avail, is on their own peril. In case, they had competed and remained unsuccessful, even otherwise they have then no right to continue on contract. Concededly, the petitioners' services were hired on contract. A contractual employee has only very limited rights confined within the four corners of the contract of employment. There is very limited scope of this Court to interfere in the extraordinary writ jurisdiction. Either way, no grounds to keep the proceedings pending.

7. Both the petitions stand dismissed accordingly.

8. A photocopy of this order be placed on the connected case file.

(ARUN MONGA)
JUDGE

September 19, 2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No