

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-5956-2017 (O&M)
Date of decision: 14.11.2022

PARDEEP KUMAR AND OTHERS ...Petitioners

VS

STATE OF HARYANA AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Vijay Kumar Sheoran, Advocate,
For the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus commanding the respondents to reinstate the petitioners on their respective posts from the date of termination of their services along with back wages, continuity of service and all other consequential benefits. Further, prayer has been made that they be allowed to continue to work till the time regular appointments are not made.

2. First succinct factual background, as pleaded in the petition. Petitioners No.1 and 3 were appointed on Class-IV posts on D.C. Rates, on contractual basis in the year 2009 and 2012 respectively. Petitioner No.2 was engaged on temporary post of Driver in the year 2011. The contracts of petitioners were being extended from time to time. Their services were terminated on 25.11.2016 vide common impugned letter/order (Annexure P-7). In the year 2014, name of petitioner No.1 was forwarded for regularization of his services on the basis of regularization

policy dated 18.06.2014 but in vain. Their services have been terminated by respondent No.3 by the common order without any prior notice to the petitioners. Order of termination was sent to them through registered post after 38 days from the date of their termination and during this period services of the petitioners were rendered without their salary being paid by the Respondents. Respondent No.2 granted permission to respondent No.3 for filling up the vacant posts of petitioners by fresh contractual appointment through advertisement. On 08.03.2017, respondent No.3 invited applications for the temporary post of Chowkidar and last date for inviting applications was 14.03.2017 and date of interview was fixed for 16.03.2017. Hence, the instant petition.

3. While issuing notice of motion on 24.03.2017, status quo regarding impugned advertisement was ordered to be maintained.

4. I have heard rival contentions of learned counsel for the parties and gone through the record.

5. Controversy involved herein is no more *res integra*. Reference in this regard may be had to the decision of the Apex Court rendered in the case of **Hargurpartap Singh versus State of Punjab and others** reported as (2007) 13 SCC 292, wherein, it has been held that the employees working on *ad hoc* basis may not claim regularization, but their services should not be terminated till regular appointments are made.

Relevant extract thereof reads as below:

“3. We have carefully looked into the judgment of the High Court and other pleadings that have been put forth before this Court. It is clear that though the appellants may not be entitled to regular appointment as such it cannot be said that they will not be entitled to the minimum of the pay scale nor that they should not be continued till regular incumbents are appointed. The course adopted by the High Court is to displace one ad hoc arrangement by another ad hoc arrangement which is not at all appropriate for these

persons who have gained experience which will be more beneficial and useful to the colleges concerned rather than to appoint persons afresh on ad hoc basis. Therefore, we set aside the orders made by the High Court to the extent the same deny the claim of the appellants of minimum pay scale and continuation in service till regular incumbents are appointed. We direct that they shall be continued in service till regular appointments are made on minimum of the pay scale. The appeals shall stand allowed in part accordingly.”

6. In view of the aforesaid, I see no reason as to why the benefit of the aforesaid decision be not accorded to the petitioners herein, who have already rendered contractual services for the last more than 3 to 4 years. In the premise, writ petition is disposed of in terms of **Hargurpartap Singh’s case (supra)**. Services of the petitioners shall not be dispensed with another set of contractual employees. Needless to say, in case regular appointees are available, the petitioners have no right to continue and aforesaid order is subject to the exigency of work being available. Petitioners shall not claim to continue even if there is no requirement of work.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

November 14, 2022

Vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No