

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

CWP-27106-2019 (O&M)

Date of decision: December 05, 2022

Roadways Karamchari Jagriti Manch, Haryana (Regd.)

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rajesh Tushar, Advocate for
Mr. Ravi Sharma, Advocate for the petitioner.

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

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari quashing the order dated 28.11.2016 (Annexure P-4) to the extent it denies the arrears on the grant of benefit of ACP, pay fixation and monthly financial assistance w.e.f. 01.01.2016 to 31.07.2016 to all drivers and conductors recruited contractually on or after 01.01.2003 by treating them as regular from their initial dates of joining.

2. In Para-2 of preliminary submissions of the return dated 09.01.2020 filed on behalf of the respondents, following *inter alia* stand has been taken:-

“2. That the prayer of the petitioner society is twofold, praying for regular pay fixation as regular from their initial dates of joining for the drivers and conductors appointed contractually and further for the arrears for the period. It is submitted that pay fixation differs from individual to individual case, depending upon the date of joining and the nature of job whether contractual/ daily wage/ temporary etc., so such type of the pay fixation and the connected benefits cannot be claimed in a representative capacity, however, the present petition has been filed claiming to be representative of all drivers and conductors appointed contractually on or after 01.01.2003. It is submitted that petitioner has neither mentioned that he/ society is representative of all such employees nor there is any evidence that all contractually appointed Drivers or

Conductor on or after 01.01.2003 have resolved to authorized the petitioner for filing such petition. As such, the present writ is not maintainable for claiming the benefit on behalf of all Drivers and Conductors of the Transport Department. It is submitted that there are more than 13,000 Drivers and Conductors in Transport Department and as per the official record the petitioner is not representing even to extent of 10% of the cadres.

The petitioner at end of writ petition has attached the resolution authorizing Sh. Pardeep Kumar for filing the Court case, however, the perusal of the same would reveal that the resolution is un-dated and has been signed by only 7 employees and in the resolution also it has not been mentioned of challenging the letter dated 28.11.2016, the matter for challenge are other than the matter in the present writ petition. It is submitted that 7 employees (drivers/ conductors and the identity of which has not been even disclosed) cannot claim for representing all drivers/ conductors of the Department where the strength is more than 13,000.”

3. No further counter affidavit and/ or replication has been filed in answer to the said written statement. Thus, the position as above remains uncontroverted. In any case, the nature of relief sought by the Association cannot be accorded as each case of driver and conductor who has been appointed on contract, has its own merit and has to be dealt with individually, and only after seeing admissibility of benefit of grant of ACP, the same can be granted.

4. Writ petition is dismissed both on the grounds of upholding the aforesaid objection taken by the respondents as well as for want of *locus standi* of the petitioner.

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

(ARUN MONGA)
JUDGE

December 05, 2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No