

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

LPA No. 1826 of 2019 (O & M)
LPA Nos. 228, 230, 231, 256 of 2020 (O & M)
LPA Nos.113, 994, 1029, 1120, 1219, 1229 and 1237 of 2021 (O & M)
LPA Nos. 5, 6, 71, 109, 290 of 2022 (O & M)
Date of Decision: 15.12.2022

Rajiv Singh and othersAppellant(s)

Versus

State of Haryana and othersRespondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Viren Nehra, Advocate,
for Mr. Sunil K. Nehra, Advocate,
for the appellants
(in LPA Nos.1826 of 2019, 231, 228, 230 and 256 of 2020).

Mr. Aditya Yadav, Advocate,
for the appellants (in LPA No. 290 of 2022).

Mr. Amit Kaith, Advocate,
for the appellants
(in LPA Nos. 1237 of 2021 and LPA Nos.6 and 71 of 2022).

Mr. Deepak Aggarwal, Advocate,
for the appellants (in LPA Nos.994, 1029 and 1229 of 2021 and
LPA Nos. 5 and 1221 of 2022).

Mr. Sudesh Kumar, Advocate,
for the appellants (in LPA No. 113 of 2021).

Mr. Hitesh Pandit, Addl. A.G., Haryana.

G.S.SANDHAWALIA, J. (Oral)

Refiling Applications

Applications for condonation of delay of 3 to 16 days in refiling
the appeals are allowed, in view of averments made in the applications
supported by affidavits.

Delay of 3 to 16 days in refiling the appeals is condoned.

CMs stand disposed of.

Filing Applications

Applications for condonation of delay of 91 to 740 days in filing the appeals are allowed, in view of averments made in the applications duly supported by affidavits and in view of the fact that no replies have been filed to the applications.

Delay of 91 to 740 days in filing the appeals is condoned.

CMs stand disposed of.

Main Appeals

The present judgment shall dispose of 17 appeals i.e. LPA No. 1826 of 2019, LPA Nos. 228, 230, 231, 256 of 2020, LPA Nos.113, 994, 1029, 1120, 1219, 1229 and 1237 of 2021, LPA Nos. 5, 6, 71, 109, 290 of 2022, as all the appeals arise out of the common judgment dated 11.02.2019 passed in a bunch of writ petitions, lead case of which was CWP No. 28691 of 2018, Sandeep and others vs. State of Haryana and others. The learned Single Judge repelled the argument of the writ petitioners (appellants herein) wherein, they sought directions to adjust them against the vacant posts of Conductors and Drivers.

Keeping in view the reply filed by the State, it was noticed that the advertisement in question, which was subject matter of challenge, had itself been withdrawn and there was a rationalization being conducted by the Department as the staff had gone up and the Haryana Roadways was running into losses. For the financial year 2017-18, loss was stated to be to the tune of Rs.676.36 crores, for financial year 2018-19, the loss was to the tune of Rs.559 crores for the period April to November, 2018 and was likely to cross

Rs.900 crores. The factual position that the fleet strength of the roadways

had also been reduced on account of condemned buses and even new buses were to be purchased would still be less than the earlier fleet strength. Resultantly, the claim of the petitioners that since they had earlier worked during the period of strike, they could not claim parity with the situation earlier which had arisen in 1993 and, therefore, the writ petitions were dismissed.

A perusal of the writ petition would go on to show that the claim made was that 504 posts had been advertised on 25.10.2018 of Heavy Vehicle Drivers and 905 posts of Conductors to be appointed on contract basis. The claim as such was thus based on the strength that the writ petitioners themselves were contractual employees and could not be replaced by similarly situated set of employees.

State in its reply, as noticed by the learned Single Judge, took the stand that the contractual engagement of 905 Conductors and 504 Drivers advertised was under active consideration for withdrawal. Thereafter the Court was informed that the final decision has been taken to withdraw the advertisement itself. In such circumstances, the flagship argument as such of the writ petitioners collapsed and thus the legal right which was sought to be enforced was no longer there. The learned Single Judge noticed and highlighted the financial condition as given out in the pleadings as to the Drivers and Conductors staff requirement and the ratios and the fall in the number of buses as such wherein the department had justified that the staff was not required. In such circumstances, the writ petition was dismissed.

We are of the considered opinion that no fault can be found as such in the order of the learned Single Judge. A writ of mandamus can be issued only where there is a legal right as such stemming from a

Statute/Policy and from the facts and circumstances in the present litigation, nothing could be demonstrated that one existed. The petitioners themselves were drivers appointed on contractual basis during the strike period. On account of the strike in the Haryana Roadways for 18 days from 16.10.2018 as per their chart in Para No.2 itself, their services were terminated from 04.11.2018 onwards. Thus apparently, they only served as contractual employees for a period of around two weeks and on account of that are seeking enforcement of a right for future employment, which a workman would also not get until he completes 240 days in the preceding year.

In such circumstances, we feel that in the absence of any legal right as such, the writ petitioners were basing their claim on a very feeble argument which has been rightly rejected. Thus, no case is made out for interference in the order dated 11.02.2019 of the learned Single Judge passed in CWP No. 28691 of 2018 and the present appeals stand dismissed.

(G.S. SANDHAWALIA)
JUDGE

15.12.2022
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No