

CWP No. 3401 of 2021 and other connected cases

2023:PHHC:139498

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 107+240)

(1) CWP No. 3401 of 2021 (O&M)
Date of Decision : 02.11.2023

Arun Kumar ...Petitioner

Versus

State of Haryana and others ...Respondents

(2) CWP-7033-2021

Jaswanti and others ...Petitioners

Versus

State of Haryana and others ...Respondents

(3) CWP-17478-2021

Amit Kumar ...Petitioner

Versus

State of Haryana and others ...Respondents

(4) CWP-17526-2021

Ram Gopal ...Petitioner

Versus

State of Haryana and others ...Respondents

(5) CWP-17529-2021

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Sanjay

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sanjay Kaul, Advocate for the petitioners.

Mr. Harish Nain, Assistant Advocate General, Haryana and
Mr. Pankaj Middha, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM-2474-CWP-2023 in CWP-3401-2021

Present application has been filed for placing on record
rejoinder to the written statement filed on behalf of respondents No. 1 to
3.

Keeping in view the averments made in the application,
which are duly supported by an affidavit, the application is allowed and
rejoinder to the written statement filed on behalf of respondents No. 1 to
3 is taken on record with all just exceptions.

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By this common order, a bunch of writ petitions, the details
of which have been given in the heading, are being decided as all these
petitions involve the same question of law on similar facts.

The grievance, which is being raised by the petitioners in the present petitions is that despite the existence of work of the post against which the petitioners were working, their services were terminated and as the petitioners were working against the regular sanctioned post, hence, till the said posts are filled by a regularly selected employee, they are entitled to continue in service.

The stand of the State is that in the present petitions the petitioners were working under the outsourcing policy through a private Contractor and their contract has already come to an end and as of now, the petitioners are only discharging the duties under the interim order of the Court. Learned State counsel submits that as the petitioners are continuing in service as of now, the department be given liberty to assess as to whether or not, services of the petitioners are required keeping in view the existing workload. Further request has been made that where the petitioners are working against the post, which are in diminishing cadre, the State be given liberty to pass an appropriate order as to whether in the facts and circumstances of the present case the petitioners are entitled to continue or not.

Keeping in view the said request of the State, the present petitions are disposed of with the direction that the petitioners will be allowed to continue in service subject to the order to be passed by the respondent-State after ascertaining the fact whether or not, the work of the post on which the petitioners are discharging duties exists. Further,

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the department will be free to pass an appropriate order keeping in view the posts, which are covered in the diminishing cadre. It may be noticed that whether the work exists or not, will be the decision of the department for which due reasons be given in case, the respondents are to come to the conclusion that no work exist for the petitioners to continue in service.

At this stage, learned counsel for the petitioners submits that certain allegations have been alleged against some of the petitioners. In case, work exists of the post but there are allegations against an employee who is working, the State will be within its jurisdiction to pass appropriate order whether to retain the said employee or not, by following appropriate procedure as envisaged under law.

Petitions are disposed of in above terms.

CM-13588-CWP-2021 and CM-4132-CWP-2021 in CWP-3401-2021

As the main petition has been disposed of, the present applications stand disposed of.

A photocopy of this order be placed on the files of other connected cases.

November 2nd, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No