

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 5972 of 2023 (O&M)

Date of Decision: 22.03.2023

Dinesh Kumar Sharma and others

...Petitioners

Versus

The State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Shiv Kumar, Advocate
for the petitioners.

JAISHREE THAKUR, J.

1. The petitioners herein have approached this Court under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, especially in the nature of Certiorari for setting aside the order dated 28.2.2023 (Annexure P-16), whereby the services of the petitioners have been repatriated to their parent department without taking permission of the Government, with a further prayer for staying the operation of the said order.

2. In brief, the facts are that the petitioners herein, who were working in the Punjab Alkalies & Chemicals Limited, a Punjab Government Undertaking at Nangal, were sent on deputation to Markfed with the period of deputation fixed as three years from the date of order i.e. 13.10.2020. The petitioners were relieved from their parent department and they joined their place of deputation. The Board of Directors of Markfed—respondent No.3 in its meeting dated 17.9.2019 passed a resolution, while considering Agenda Item No. II, for taking 85 number of surplus employees on deputation from

CWP No. 5972 of 2023

another department i.e. Punjab Agro Food Grain Corporation, Chandigarh. In the meantime, the parent department of the petitioners stands disinvested and the entire share of the Punjab Government was transferred to some private organization and there was a change in set up. The petitioners represented for merging of their services with the Markfed. However, as on date, no such decision has been taken on their representation. The decision, in fact, has to be taken at the level of the Government and the matter is pending consideration therein. The petitioners vide letter dated 28.2.2023 were informed that they are going to be repatriated to their parent department with effect from 31.3.2023, prior to the deputation period being over. Hence the instant writ petition.

3. Learned counsel for the petitioners would submit that letter dated 28.2.2023 has been issued with the approval of the Managing Director of the Markfed after approval of the Registrar, but without taking any approval from the Registrar, Cooperative Societies, Punjab or the Government, whereby the petitioners are now sought to be repatriated. It is submitted that other employees have been absorbed with the Markfed and, therefore, the petitioners too, who have been working satisfactorily, ought to be absorbed. It is further submitted that pending consideration of the representation of the petitioners, which has been duly endorsed by the Minister, the order of repatriation be stayed.

4. I have heard learned counsel for the petitioners and find that the instant petition is premature, considering the fact that decision with regard to the repatriation or whether the petitioners herein are to be absorbed with the Markfed or not, is yet to be taken by the Government.

5. Faced with the situation, learned counsel for the petitioners would

CWP No. 5972 of 2023

submit that the representation filed by the petitioners seeking their absorption with the Markfed be decided expeditiously, since the order of repatriation have already been passed by the Markfed.

6. In view of the statement made by the learned counsel for the petitioners, issue notice of motion.

7. At this stage, Mr. Athar Ahmed, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondents.

8. Keeping in view of facts and the nature of controversy involved in the instant writ petition, the same is disposed of with a direction to respondents No.1 and 2 to treat the present writ petition as a representation regarding absorption of the services of the petitioners with the Markfed and against their repatriation. Let a speaking order be passed within a period of three weeks from today. Learned counsel for the petitioners is directed to furnish a complete set of the paper book to the learned counsel for the State during the course of the day.

9. In the meantime, till a decision is taken on the representation of the petitioners, as directed above, the repatriation of the petitioners is stayed.

10. The writ petition stands disposed of on the above terms.

22.03.2023

prem

(JAISHREE THAKUR)
JUDGE