

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

CWP-13300-2019

Date of decision : 24.01.2023

Sunita Kumari

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Riti Aggarwal, Advocate
for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

Mr. D.K. Singla, Advocate
for respondent No.3.

PANKAJ JAIN, J. (Oral)

While issuing notice of motion, this Court on 20.05.2019
observed as under:-

“Pleaded case is that the petitioner was engaged on a purely contractual basis against the post of Sewing Teacher under the Municipal Council, Nangal and has discharged her duties continuously and without any break over a period of 16 years.

Instant writ petition has been filed seeking a mandamus directing the respondents to permit the petitioner to continue to discharge her duties and responsibilities as also to release to her the salary which has been arbitrarily withheld for the last 20 months.

Counsel would inter alia contend that the petitioner was identically situated with another set of employees who had approached this Court by filing CWP-13348-2018 (Rajiv Kumar & others Vs. State of Punjab & others) as also other connected petitions and wherein while issuing notice of motion, interim directions were issued to allow the petitioners therein to

continue in employment and not to replace them by another set of contractual employees. Further urged that the writ petitions were dismissed by the writ Court vide common judgment dated 10.12.2018 passed in CWP-13348-2018 (Annexure P-6). Thereafter, LPA-4957-2018 was filed and a Division Bench while issuing notice of motion on 18.12.2018 passed interim orders in the same terms as was operating during pendency of the writ petition by the learned Single Judge.

Notice of motion, returnable for 02.08.2019.

To be listed along with CWP-3345-2019.

In the meanwhile, respondents are directed to permit the petitioner to continue in employment and not to replace her by another contractual arrangement.”

2. Counsel for respondent No.3 while referring to the aforesaid order has brought to the notice of this Court that even the Bunch of LPAs including LPA No.4957 of 2018 in which the counsel representing the petitioner herein was representing the appellant stands dismissed. The issue already stands examined by Division Bench in LPA No.4957 of 2018 (supra), wherein it has been held as under:-

“A perusal of the work order dated 16.12.2016 (Annexure R-3/11) would go on to show that the same tender had been given for Rs.42,84,000/- and had been approved by the competent authority and an agreement was to be executed. All these factors would go on to show that work was being done through a contractor as such and the learned Single Judge was well justified by noting that the agencies had not been impleaded and the appellants had taken a chance by not impleading them. It is settled principle that when the disputed questions are raised, it is not for the writ Court to go into the same. The right and remedies of the petitioners are elsewhere

on account of completing the certain set of period with the manpower agency with the Council and the writ petition was also not maintainable on the said account.

Merely on account of the fact that they had worked for one year and approval had been sought from the Local Bodies, the same would not given them a right to the appellants to seek the benefit of regularization as they were never employees of the Municipal Council. Therefore, the learned Single Judge was well justified in dismissing the writ petitions. Nothing has been placed on record to show that the writ petitioners were paid any amount directly to show that there was a contract of employment inter se the parties, either in the form of deposit of salaries in their account or by receipt of cash.

Reliance placed upon the judgment of the Apex Court passed in '**Secretary, Haryana State Electricity Board Vs. Suresh**' 1999 (2) PLR 722, would go on to show that the Apex Court was dealing upon the dispute arising out of the judgment of the Labour Court, which had come to the conclusion that the certain set of workmen had worked for 240 days in a year and were liable to be reinstated, which had been upheld by the learned Single Judge and the Division Bench and in such circumstances the SLP had been dismissed. Rather the said judgment supports the reasoning given by this Court that it is not for the writ Court to go into the disputed issues.”

3. Accordingly, the present writ petition is dismissed in view of LPA No.4957 of 2018.

24.01.2023

Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes

Whether Reportable : No