

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(212)

CWP No. 21199 of 2018
Date of Decision : 01.08.2023

Raj Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sony Gill, Advocate for
Mr. Shalender Mohan, Advocate for the petitioners.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. The present petition has been filed challenging the order dated 12.06.2018 (Annexure P-8(Colly)) by which the services of the petitioners have been terminated by the respondent No. 5 and that too by violating the order passed by the Labour Court dated 31.07.2017 (Annexure P-4).

2. Certain facts needs to be mentioned herein for correct appreciation of the issue in hand.

3. As per the averments made in the petition, the petitioners were appointed on daily wage basis in various forest division. The petitioners continued working as daily wager and ultimately, keeping in view the various regularization policies, which were issued by the Government of Haryana, the petitioners are claiming for regularization of their services.

The petitioners' claim is that keeping in view the regularization policy

issued by the Government of Haryana dated 01.10.2003, the petitioners were entitled for regularization of their services, especially, when the similarly situated employees, who were appointed after them, were given the benefit of said regularization policy.

4. As per the petitioners, rather than regularizing the services of the petitioners, the respondents terminated their services, which action of the respondents was challenged by the petitioners before the Labour Court. The Labour Court decided the said references vide order dated 07.06.2017/ 31.07.2017 by which, the order terminating the service passed by the department were held to be bad and the petitioners were directed to be reinstated in service with continuity and 50% of the back wages.

5. After the petitioners were reinstated, the respondents again passed the impugned orders dated 12.06.2018 (Annexure P-8 (Colly)) by recording a fact that the assertions made before the Labour Court, Ambala by the petitioners qua their initial date of appointment was incorrect and the Award passed by the Labour Court was on the basis of the incorrect facts projected by the petitioners and as the petitioners, according to the respondents, misled the Tribunal, petitioners' services are liable to be terminated. The Deputy Forest Officer passed orders terminating the services of the petitioners once again, which orders are under challenge in the present petition.

6. Learned counsel for the petitioners argues that once the Award given by the Labour Court has already been accepted by the respondents and no writ petition was filed by them challenging the same, no order could have been passed against the petitioners on the ground that the facts raised

by the petitioners before the Labour Court were incorrect qua their initial date of appointment, hence, the order of termination of petitioners (Annexure P-8) amounts to overreaching the Court as, the reinstatement order of the Labour Court is being nullified so as to terminate the services of the petitioners once again.

7. Learned State counsel submits that though, it is a conceded fact that Labour Court set-aside the termination orders, which were passed by the department prior to the passing of the impugned order, but the petitioners did not give the correct date of their appointment before the Labour Court, which led to the passing of the incorrect Award in their favour, hence, the department was well within its right to pass appropriate orders keeping in view the facts of the case and, therefore, the services of the petitioners have rightly been terminated by the impugned orders. Learned State counsel concedes the factum that the Award passed by the Labour Court was not challenged by the respondents on any ground.

8. I have heard learned counsel for the parties and have gone through the record with their able assistance.

9. It is a conceded fact that the issue raised qua the termination of the services of the petitioners was decided by the Labour Court by passing an Award dated 31.07.2017 (Annexure P-4). In the Award, certain facts have been detailed qua the appointment of the petitioners and the decision of the Labour Court rests upon the facts. The said Award is in favour of the petitioners so as to be reinstated in service with 50% of the back wages. In case, respondent-department was of the view that the petitioners have projected incorrect facts before the Labour Court so as to get an order in

their favour, nothing stopped the department to challenge the order passed by the Labour Court on any of the ground admissible including raising an issue that date of appointment has wrongly been noted by the Labour Court, while passing an Award in favour of the petitioners.

10. Once, it is a conceded position that no action was taken by the department qua the Award passed by the Labour Court in favour of the petitioners, copy of which has been appended as Annexure P-4, impugned order terminating the services of the petitioners could not have been passed by the respondents on the ground that the date of initial appointment was wrongly alleged by the petitioners before the Labour Court. In fact, the impugned order terminating the services of the petitioners amounts to overreaching the finding rendered by the Labour Court so as to deny the benefit already granted by the Labour Court in favour of the petitioners, which act is impermissible.

11. Keeping in view the above stated facts and circumstances, the impugned orders terminating the services of the petitioners cannot be sustained in the eyes of law and are accordingly set-aside.

12. Writ petition is allowed in above terms.

August 01, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No