



CWP-8993-2024

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

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**CWP-8993-2024 (O&M)  
Date of Decision:21.05.2024**

Ashok Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present:- Mr. T.S. Dhull, Advocate for the petitioners.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Puneet Jindal, Sr. Advocate with  
Mr. Arshnoor Singh, Advocate for respondents No.2 to 4.

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**JASGURPREET SINGH PURI J.(Oral)**

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned orders dated 08.04.2024 (Annexures P-16 to P-19) vide which the respondents have terminated the services of the petitioners. Further prayer is for quashing of enquiry report vide Annexure P-7.

2. At the outset, learned Senior counsel for respondent-Nigam submitted that reply has been filed by the Managing Director of the respondent-Nigam in pursuance of the order passed by this Court on 01.05.2024 and while referring to the aforesaid reply, he submitted that an opinion was sought from the legal department of the respondent-Nigam to



which opined that the respondent-Nigam or its officers did not have the power to pass the termination orders because the powers of termination are vested with the Haryana Kaushal Rozgar Nigam Limited (hereinafter to be referred to as 'HKRNL') and all the four petitioners were recruited by the outsourcing agency and therefore at the most reference could have been made to the HKRNL. He further submitted that the impugned orders, by which the services of all the petitioners were terminated, have since been withdrawn by the respondent-Nigam and now the matter will be referred to the HKRNL for further processing, in accordance with law.

3. On the other hand, learned counsel appearing on behalf of the petitioners submitted that the present is a third round of litigation by the petitioners. He further submitted that the petitioners had been working in the respondent-Nigam from 07 to 13 years and they were terminated on 19.02.2024 (Annexure P-13) because of non-possessing of the requisite certificates. He further submitted that for the first time, petitioner No.1 filed a writ petition before this Court bearing **CWP No.1393 of 2024** titled as **Ashok Kumar Vs. State of Haryana and others**, which was disposed of by this Court on 23.01.2024 vide Annexure P-22 and this petition was filed prior to passing of the termination orders because challenge in the aforesaid petition was only to the show cause notice dated 16.01.2024 issued to petitioner No.1 and he had taken a ground that only 07 days time was given to him to file a reply which was arbitrary and this Court had disposed of the aforesaid petition by observing that the time period of 07 days which was given to the petitioner was arbitrary and harsh and the petition was disposed of with a direction to respondent-Nigam to grant at



least one month's time to the petitioner for filing reply to the show cause notice and it was also directed that till the expiry of one month from the date of receipt of the show cause notice, no coercive steps shall be taken against the petitioner. Thereafter, services of the petitioners were terminated on 19.02.2024 after the aforesaid time of one month given by the respondent-Nigam elapsed and the petitioners, for the second time, filed another writ petition before this Court bearing **CWP No.4750-2024** titled as ***Ashok Kumar and others vs. State of Haryana and others.*** When this writ petition came up for hearing on 19.03.2024, learned counsel appearing for the respondent-Nigam had stated on instructions that the respondent-Nigam had decided to withdraw the order of termination qua the petitioners and now an opportunity will be granted to the petitioners, in accordance with law and only after considering the replies, if any, filed by the petitioners to the notices issued, a final order will be passed in accordance with law and, therefore, the aforesaid second petition was disposed of having become infructuous.

4. Learned counsel for the petitioners further submitted that thereafter again orders of termination of services of the petitioners were passed by the respondent-Nigam on 08.04.2024 vide Annexures P-16 to P-19 by stating that petitioners had procured false and fake certificates. He also submitted that in the present petition, an interim order was passed by this Court on 01.05.2024 wherein it was directed that till the next date of hearing status-quo ante i.e. status prior to passing of the impugned orders shall be maintained and the petitioners shall be taken on duty by the respondents. He further submitted that in pursuance of the aforesaid



interim order dated 01.05.2024 passed by this Court, the petitioners were taken back on duty on 06.05.2024 and an affidavit has also been filed by the Managing Director of respondent-Nigam wherein it has been again stated that the impugned orders have been withdrawn because the respondent-Nigam did not have power to pass the order of termination because the power was vested with the HKRNL.

5. Learned counsel for the petitioners further submitted that even though the respondent-Nigam did not have any power to issue a show cause notice or even to terminate the services of the petitioners, the same has been done twice and petitioners were compelled to file petitions thrice in this regard. He further contended that petitioners are not only entitled for salary for the period they have actually worked but also entitled for salary for the period they have been kept out of service because of the ex-facie illegal orders of termination passed by respondent-Nigam.

6. I have heard learned counsels for the parties.

7. The respondent-Nigam has now withdrawn the impugned orders on the ground that the respondent-Nigam did not have any power to pass the termination orders. The competent authority in this matter was the HKRNL as per the affidavit-reply filed by the Managing Director of respondent-Nigam. It is ex-facie clear that the respondent-Nigam did not have any power to issue show cause notice or to pass any termination order against the petitioners as per the affidavit filed by the Managing Director of respondent-Nigam. Therefore, the prayer which has been made by learned counsel for the petitioners that they are entitled for



salary for the period for which they were illegally kept out of job for different periods of time starting from 19.02.2024, is just and proper and in accordance with law. Hon'ble Supreme Court in ***The Commissioner, Karnataka Housing Board vs. C. Muddaiah, 2007 (7) SCC 689*** held that ordinarily if an employee has not worked and discharged his duties for the previous period, then the principle of 'no work no pay' shall apply. However, the aforesaid principle of law is not absolute and is subject to exceptions. Hon'ble Supreme Court in the aforesaid judgment carved out an exception wherein it was held that when it is proved on record that an employee has been deprived of discharging his duties because of the wrongful action of the organization and has been kept away because of the wrongful action of the organization, then in that situation the principle of 'no work no pay' will not apply. The relevant portion of aforesaid judgment is reproduced as under:-

*“33. The matter can be looked at from another angle also. It is true that while granting a relief in favour of a party, the court must consider the relevant provisions of law and issue appropriate directions keeping in view such provisions. There may, however, be cases where on the facts and in the circumstances, the court may issue necessary directions in the larger interest of justice keeping in view the principles of justice, equity and good conscience. Take a case, where ex facie injustice has been meted out to an employee. In spite of the fact that he is entitled to certain benefits, they had not been given to him. His representations have been illegally and unjustifiably turned down. He finally approaches a court of law. The court is convinced that gross injustice has been done to him and he was wrongfully, unfairly and with oblique motive deprived of those benefits. The court, in the circumstances, directs the authority to extend all benefits which he would have obtained had he not been illegally deprived of them. Is it open to the authorities in such case to urge that as he has not worked (but held to be illegally deprived), he would not be granted the*



*benefits? Upholding of such plea would amount to allowing a party to take undue advantage of his own wrong. It would perpetrate injustice rather than doing justice to the person wronged.*

*34. We are conscious and mindful that even in absence of statutory provision, normal rule is 'no work no pay'. In appropriate cases, however, a court of law may, nay must, take into account all the facts in their entirety and pass an appropriate order in consonance with law. The court, in a given case, may hold that the person was willing to work but was illegally and unlawfully not allowed to do so. The court may in the circumstances, direct the authority to grant him all benefits considering 'as if he had worked'. It, therefore, cannot be contended as an absolute proposition of law that no direction of payment of consequential benefits can be granted by a court of law and if such directions are issued by a court, the authority can ignore them even if they had been finally confirmed by the Apex Court of the country (as has been done in the present case). The bald contention of the appellant-Board, therefore, has no substance and must be rejected."*

8. In the present case now an affidavit-reply has been filed by the Managing Director of the respondent-Nigam, in which it is stated that respondent-Nigam did not have any authority or power to pass termination orders and therefore this Court is satisfied that the petitioners have been kept out of service not because of the fault of the petitioners but because of fault of the respondent-Nigam and therefore the petitioners shall be entitled for entire salary for the period for which they were kept out of service after 19.02.2024. The respondents-Nigam are directed to calculate the amount for aforesaid period i.e. after 19.02.2024 and pay to all the petitioners within a period of three months from today. However, there shall be no order as to the interest part.

9. Since the impugned orders itself have been withdrawn by the respondent-Nigam, the present petition has been rendered infructuous.

Liberty is hereby granted to the respondent-Nigam to refer the issue of



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qualifications of the petitioners to any other concerned competent authority including HKRNL.

10.            Since the petitioners have been forced to file three writ petitions before this Court by impugning the action of the respondents, for which they did not have any competence to take an action and twice the petitioners have been terminated from service, the action of the respondent-Nigam not only affected the petitioners but also their families, this Court is of a considered view that it is a fit case for granting costs to the petitioners. Consequently, it is directed that all the petitioners shall be entitled for costs of Rs.25,000/- each which shall be paid by the respondent-Nigam to the petitioners within a period of three months from today.

**(JASGURPREET SINGH PURI)**  
**JUDGE**

**21.05.2024**  
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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |