

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211 (02 cases)

CWP-7533-2018 (O&M)
Date of Decision :11.01.2024

Anil Kumar and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CWP-8567-2018

Sanjay Rohila @ Sanjay Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

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CWP-8872-2018 (O&M)

Kanhiya

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jainainder Saini, Advocate for the petitioners in
CWP-7533-2018 & CWP-8567-2018.

Mr. Ashish Pundir, Advocate for
Mr. Sanjeev Kumar Panwar, Advocate for the petitioner
in CWP-8872-2018.

Mr. Saurabh Mohunta, SAG, Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petitions, the grievance of the petitioners is that they are entitled to continue in service till the regular appointments are made by the respondents and that they cannot be replaced with another set of contractual employees on the same terms and conditions. Further prayer of the petitioners is that they should be allowed to continue in service.

2. Learned counsel for the respondents submits that the petitioners have not been replaced by another set of contractual employees however, regular appointees already working, have been given charge of the post on which the petitioners were discharging their duties. Learned counsel for the respondents submits that para-6 of the reply is very categorical qua the said fact.

3. Learned counsel for the respondents further submits that petitioners have not been replaced by another set of contractual employees as being alleged by them and prayer of the petitioners that they should be allowed to continue till the regular incumbents join cannot be accepted as no regular appointment is to be made by the respondents.

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

5. It is a prerogative of the employer as to how the work is to be taken from the employee concerned. The petitioners, who were working on contractual post have only right to continue till the regular incumbents join. Once, the said post is filled by a regular incumbent, who is already working or freshly appointed, petitioners who are working on temporary basis are to

vacate the post for a regular incumbent. The date of appointment of regular employee is of no consequence.

6. Further claim of the petitioners that they are being replaced by another set of contractual employees has been categorically denied by the respondents in their reply, which averment has not been rebutted by the learned counsel for the petitioners as no name of the fresh employee, who has been appointed in the place of the petitioners has been brought on record by the petitioners. Hence, no grievance can be raised by the petitioners.

7. As far as the argument raised by the learned counsel for the petitioner in CWP-8872-2018 that petitioner should be allowed to continue till post in question is to be filled up by regular incumbent, there is no right with the temporary employee to claim that he/she should be allowed to continue till the post is to be filled up on regular basis as it is the prerogative of the employer to fill the post as and when work of the said post exists. A temporary employee can only demand that he/she should not be replaced with another set of employee on the same terms and condition.

8. In the present case, the only prayer of the petitioner is that he should be allowed to continue till the post in question is to be filled up on regular basis, which cannot be allowed as in case employer feels that work of the post does not exist any more, the services of the temporary employee can be terminated even without filling up the said post on regular basis.

9. Keeping in view the facts and circumstances recorded hereinbefore, no ground for interference by this Court is made out and the writ petitions are accordingly dismissed.

10. Civil Miscellaneous application pending if any is disposed of.
11. Copy of this order be placed on the file of connected cases.

January 11, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No