

2025:PHHC:028898



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

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CWP-5255-2025

Date of Decision: 25.02.2025

NAVEEN KUMAR AND OTHERS

... Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Abhishek Yadav, Advocate
for the petitioners.

Ms. Tanisha Peshawaria, DAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the orders dated 17.10.2020 and 19.10.2020 recommending for termination and order dated 22.10.2020 and speaking order dated 02.09.2024 vide which the services of the petitioners have been terminated.

Learned counsel for the petitioners contends that 31 sanctioned posts of Clerks/Data Entry Operator were lying vacant in the office of Deputy Commissioner, Rewari since 2007, against which, the petitioners were appointed in the year 2015, 2017 and 2018 respectively through a due process of selection. The advertisement for the same was duly issued to grant opportunity to all eligible and interested candidates to compete and a type test followed by an interview was also held. The petitioners finally joined as Data Entry Operator against the said vacant sanctioned posts, however, the appointments of the petitioners were made through outsourcing agency-

respondent No.7, which was in violation of the then existing Outsourcing Policy of 2015 but they actually worked under the guidelines, control and supervision of the official respondents. The introduction of an Outsourcing Agency was for defeating the rights of the petitioners and to create a mirage of employer-employee relationship. He submitted that the petitioners have continuously worked with the respondents with full sincerity, devotion, hard-working attitude and to the entire satisfaction of their superiors; and there had been no complaints regarding work and conduct of the petitioners during the entire period. The contract continued to be extended year after year. However, the Transport Commissioner passed an order dated 17.10.2020 directing the Secretary of all RTA offices to terminate the services of Data Entry Operators employed through Outsourcing Agency with immediate effect. In compliance thereto, RTA, Rewari sent the petitioners back to NIC vide order dated 19.10.2020 with recommendations to terminate their services. The Deputy Commissioner-cum-Chairman, DITS thereafter terminated the services of the petitioners vide order dated 22.10.2020 w.e.f. 19.10.2020 without affording any opportunity of hearing to the petitioners. He further submits that the services of the petitioners were terminated notwithstanding the instructions issued by the Government on 20.03.2020 with regard to termination of services of an employee during the said period; but nonetheless, the impugned order was passed. He further submits that the respondents have infact appointed another set of contractual employees against the posts for which the petitioners were terminated. The petitioners No.1 and 2 filed CWP-20048 of 2020 titled as 'Nitesh Sharma and others Versus State of Haryana and Others' and petitioner No.3 filed CWP No.19561 of 2020 titled as 'Vijay Singh and Others Versus

State of Haryana and Others'. The said writ petitions were disposed of by this Court after recording the statement that the representations of the petitioners shall be considered and decision shall be taken thereupon. In compliance thereto, the impugned order dated 02.09.2024 has been passed by the respondents, which is a subject matter of challenge in the present petition.

The counsel for the petitioners has been confronted with the reasons given by the respondents which are as under: -

- (i) Currently, there is no post or requirement of services of Data Entry Operators and that there is no work for engagement of their services because the work load has been reduced.
- (ii) There is no project with the DITS to re-engage the petitioners and that any such re-engagement would financially burden the DITS.
- (iii) There was an unsatisfactory work report dated 13.04.2021 filed by their supervisor employer and as the satisfaction of the employer is mandatory to continue any Data Entry Operator in service, hence, there was no basis even otherwise.

Learned counsel for the petitioners has been specifically asked to name any other contractual employee(s) who has/have been engaged by the respondents against the posts on which the petitioners were working, whereupon he fairly concedes that he has no such instructions or knowledge.

Since the petitioners have failed to establish that there is any engagement of other contractual employees to replace the petitioners and in light of the reasons recorded by the respondents including that now there is no work available with the DITS requiring it to re-engage the petitioners on account of reduction of work, I do not find any illegality or perversity in the

impugned order passed by the respondents discontinuing the contractual engagement of the petitioners. The position in law is not disputed herein which mandates that a contractual employee cannot be replaced with another contractual employee(s). However, as the facts of the present case do not justify the applicability of the said settled position of law, hence, reliance upon the same is misconceived.

For the foregoing reasons, the present petition is hereby dismissed at this stage.

FEBRUARY 25, 2025.

Rajender

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No