
(2013) 02 P&H CK 0060
In the Punjab And Haryana At Chandigarh
Case No : CWP. No. 10293 of 2010

Jaswant Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 06-02-2013

Acts Referred:

Citation : (2013) LabIC 1341 : (2013) 170 PLR 24

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Namit Kumar, for the Appellant; Monica Chhiber Sharma, DAG, Punjab and Sunil Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—By this order, I propose to dispose of CWP No. 10293 of 2010 titled as Jaswant Singh and others v. The State of Punjab and others and CWP No. 10802 of 2010 titled as Jaswant Singh v. The State of Punjab and others, as common questions of facts and law are involved in the present writ petition. With the consent of the counsel for the parties, these cases are taken up for hearing together for disposal as it is stated that the matter can be decided by a single order. Facts are being taken from CWP No. 10293 of 2010.

2. Petitioners have approached this Court praying for quashing of the order dated 18.5.2010 (Annexure-P-8) whereby the petitioners have been ordered to be transferred on deputation from "Ranjit Sagar Dam, Shahpur Kandi Township" to "Kandi Area Development Project" and "Punjab Water Resources Organisation and Development Corporation Ltd." without the consent of the petitioners. It is stated that the said order is in violation of the order dated 28.4.2006 passed in CWP No. 4848 of 2005 (Annexure-P-4); 12.10.2004 in CWP No. 6625 of 2004 (Annexure-P-5); 19.2.2004 passed in CWP No. 17964 of 2003 (Annexure-P-6) and 14.8.2003 passed in CWP No. 19114 of 2001 (Annexure-P-7).

3. The petitioners have approached this Court asserting that they have been

appointed in the Ranjit Sagar Dam Project. Appointment letter dated 11.3.1996 of Nirbhe Singh-petitioner No. 5 (Annexure-P-2) has been placed on record. Referring to Clause 5 of the said appointment letter, it has been asserted that the petitioners were required to work any where in any manner i.e. in connection with the work of the Ranjit Sagar Dam Project or any work entrusted to this project anywhere in the country. Since the petitioners have been transferred out from the Ranjit Sagar Dam project to a different project, the terms of appointment have been violated and that too without their consent which amounts to sending the petitioners on deputation and the same, therefore, cannot sustain. In the light of the judgments passed by this Court in the earlier writ petitions preferred by the petitioners when they were sent on deputation to the Pepsu Road Transport Corporation and Social Security Women and Children Development Department (Annexures-P-4 to P-7), his contention is that the impugned order cannot sustain and deserves to be set aside.

4. On the other hand, counsel for the respondents submits that the petitioners are primarily employees of the Department of Irrigation and in support of this contention reference to the appointment letter to the petitioner No. 5; one of the petitioners, which is attached as Annexure-P-2 has been made, wherein it is mentioned that the employer is Ranjit Sagar Dam Project Public Works Department (Irrigation Branch, Punjab) and the petitioners have been transferred to other projects which are run by the Department. Since the petitioners were rendered surplus in the Ranjit Sagar Dam project, there being other projects run by the Irrigation Department, their services have been transferred from this project to other projects as per the availability of the work and with intention to safeguard the interest of the petitioners. It has further been stated that the petitioners being employees of the Irrigation Department are, therefore, not sent to any Department and they are continuing in the Punjab Irrigation Department who is the real employer of the petitioners. Reference has been made to the judgment passed by this Court in CWP No. 6625 of 2004 Pirthi Raj and others v. State of Punjab and others, decided on 12.10.2004 (Annexure-P-5) wherein this Court has specifically while holding that the petitioners could not be sent on deputation from the Irrigation Department without their consent, were directed to be relegated to their earlier employer namely Irrigation Department, Punjab. On this basis, it has been asserted that there being no violation of the terms of the appointment of the petitioners as the petitioners continue to be employees of the Irrigation Department, the impugned order is in accordance with the law.

5. At this stage, counsel for respondent No. 4 states that the petitioner Nos. 5 to 9 who had joined the Punjab Water Resources Organisation and Development Corporation Ltd. have been relegated back to their parent company. In the light of this statement made by counsel for respondent No. 4, petition qua petitioner Nos. 5 to 9 has been rendered instructuous.

6. I have heard counsel for the parties and with their assistance, I have gone

through the record of the case.

7. Perusal of the order of appointment which has been placed on record clearly indicates that the petitioners although was appointed in Ranjit Sagar Dam project but the same is under Public Works Department (Irrigation Branch), Punjab. If that be so when read in consonance with the order passed by this Court in Pirthi Raj's case supra wherein it has been specifically held that the petitioners are employees of the Irrigation Department and are relegated to their earlier employer namely Irrigation Department, Punjab. The stand of the counsel for the petitioners cannot be accepted. The project in which the petitioners have now been transferred being one of the Irrigation Department cannot be said to be one wherein the petitioners have been sent on deputation. It is merely a transfer within the same Department, which would be in this case from one project to another. Accordingly, there is no merit in the claim of the petitioner Nos. 1 to 4 as has been projected in the writ petition, therefore, the writ petition qua them stands dismissed. As regards petitioner Nos. 5 to 9, the writ petition has been rendered infructuous in the light of statement of counsel for respondent No. 4.

Ordered accordingly.