
(2014) 05 P&H CK 0406
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 3148 of 1993

Joginder Pal and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 08-05-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2014) 05 P&H CK 0406

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Rakesh Nagpal, Advocate for the Appellant; Harish Rathee, Sr. D.A.G., Haryana for the State, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Augustine George Masih, J.—By this order, I propose to dispose of Civil Writ Petition Nos. 3148 and 13442 of 1993 as in these cases, petitioners have come forward for quashing of the order dated 28.02.1992 (Annexure P-1) passed by the Director, Industrial Training, Haryana withdrawing the benefit of medical leave, which was earlier allowed to them while they were working on ad hoc basis and as a consequence thereof ordering recovery from them.

2. It is the contention of the counsel for the petitioners that initially while they were working on ad hoc basis, they were granted the benefit of medical leave, which the petitioners availed of and now after their services have been regularized, vide impugned order, the benefit which was earlier conferred upon the petitioners and given to them is sought to be withdrawn with a further order of recovery. This, the counsel contends is not sustainable in the light of the observations of the Hon'ble Supreme Court in Rattan Lal and Others Vs. State of Haryana and Others, . Reliance has also been placed upon the Division Bench judgment of this Court in Raja Bala Versus State of Haryana, 2002 (4) S.C.T. 172, where the contract employees have been held entitled to the benefit of medical leave and maternity benefits and the distinction made between the

regular employees and contractual employees has been found to be violating of Articles 14 and 16 of the Constitution of India.

3. Counsel for the petitioners gives up the prayers made in the writ petitions except for the one which has been referred to above and contends that the petitioners would be satisfied if the recovery, which is being sought to be made from them, is not given effect to.

4. Counsel for the respondents, on the other hand, contends that the petitioners are not entitled to the benefit which they were wrongly conferred upon and the order dated 28.02.1992, being in consonance with the instructions and the rules framed by the respondents, do not call for any interference by this Court.

5. I have considered the submissions made by the counsel for the parties and with their assistance have gone through the records of the case.

6. The recovery which was ordered to be effected from the petitioners vide impugned order dated 28.02.1992 was stayed by this Court when the writ petitions were taken up for hearing. Since then the stay order is continuing.

7. In the light of the observations made by the Hon''ble Supreme Court in Rattanlal's case (supra), it would not be appropriate for effecting recovery which has been ordered as a consequence of the order dated 28.02.1992 withdrawing the benefit of medical leave which the petitioners have availed of while they were working on ad hoc basis.

8. In view of the above, these writ petitions are disposed of with direction that no recovery be effected from the petitioners as a consequence of the order dated 28.02.1992 (Annexure P-1).