

Before K. Kannan, J.

RAM KARAN AND ANOTHER,—Petitioners

versus

STATE OF HARYANA AND OTHERS,—Respondents

CWP No. 16258 of 1990

23rd May, 2011

Constitution of India, 1950—Art.162, 226—Haryana Municipal Services (Integration, Recruitment & Condition of Service) Rules, 1982-Rl.9(3)—Appointment stipulated for six months or till candidate of Subordinate Service Selection Board, Haryana, is available, whichever is earlier—Service terminated invoking latter clause.

Held, that the Petitioners appointment as per the Rules must be understood as being regular and the services cannot be governed by any clause in the appointment letter which is inconsistent with the rules. Such inconsistency cannot be allowed to prevail. Petition allowed.

(Para 4 & 5)

R.K. Gupta, Advocate, *for the petitioners*

None for respondents No. 1 and 2

S.S. Goripuria, DAG, Haryana, *for respondent No. 3*

K. KANNAN, J. (ORAL)

(1) The writ petition is for direction to the respondents to treat the petitioners on the post of Peon as regular and that their services cannot be terminated except by process know to law.

(2) The petitioners were appointed after a recommendation from the Employment Exchange to regular vacancies calling to the post of Peon in terms of the Haryana Municipal Services (Integration, Recruitment and Conditions of Service) Rules, 1982 (for brevity, 'the Rules, 1982'). The officer competent to issue the order was the Deputy Commissioner and the

petitioners had been issued orders of appointment on 13th June, 1990. The order itself reads that the services will be regulated by the Rules, 1982. However, the order of appointment carried a condition that the posts were temporary and was liable to be terminated at any time without assigning any reason. The appointment was stipulated for a period of six months or till the candidates of Subordinate Service Selection Board, Haryana was available which was earlier. It was a latter clause that was invoked to terminate the services of the petitioners. The petitioners had come by way of writ petitions and secured interim directions for continuation in service. Vide order dated 12th February, 2004. it appears that they were re-employed against other posts in Government Departments of Haryana.

(4) The contention of the petitioners is that if it was an admitted fact that their services were to be regulated under the Rules 1982, the rule itself provides through Rule 9(3) that posts which were not covered by Clauses 1(i) and 2(i) that made references to appointments of persons whose respective initial pay was over Rs. 700 and Rs. 400, the appointment should be done through the concerned Employment Exchange. The appointing authority for the posts, as per the appendix B of the Rules, is Deputy Commissioner. The petitioners' appointment as per the Rules, must be understood as being regular and their services cannot be governed by any clause in the letter of appointment which is inconsistent with the rules. The reference to the petitioners' appointment as enuring for a period of six months or till the candidates of Subordinate Service Selection Board, Haryana was available which were earlier, was, therefore, inconsistent with the Rules and cannot be allowed to prevail.

(5) The petitioners had justifiable grievance but they have not come to any harm thanks to the interim directions given by this Court on 12th February, 2004. The petitioners are entitled to be treated as holding regular posts from the date of initial appointment in the manner sought in the writ petition.

(6) The writ petition is allowed.