

Roadways only the posts of Drivers and Conductors have been exempted after taking into consideration the type of work carried out in the Haryana Roadways. Therefore, we are of the view that there is no legal infirmity in the notification dated 4th June, 2005 (Annexure P-2) and it answers the necessary criteria laid down by their Lordships of Hon'ble the Supreme Court in **Sanjay Kumar Jain's** case (*Supra*). Moreover the service of the petitioner has been terminated. He had rendered more than 19 years of service and has been given pension in accordance with the rule. Thus, there is no merit in the petition and the same is liable to be dismissed.

(9) As a sequel to the above discussions this petition fails and the same is dismissed.

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**R.N.R.**

*Before K.Kannan, J.*

**SHYAM SUNDER PROP, M/S TC FILLING STATION  
(AD HOC) HPC PETROL PUMP, VILLAGE AJRAWAR  
DISTRICT KURUKSHETRA,—Petitioner**

versus

**UNION OF INDIA AND OTHER,—Respondents**

CPW No. 16469 of 2009

3rd March, 2009-- 20/0

*Constitution of India, 1950—Art. 226—Cancellation of temporary dealership of retail outlet of petroleum products — Petitioner claiming dealership on a permanent basis—Recitals in advertisement do not show anywhere that invitation was from people interested for establishing dealership of petroleum products— Invitation was for offer of sale or lease for establishment retail outlets of petroleum company—Dealership offered to petitioner not for a long period—Letter offering document providing 15 days notice for termination of arrangement—Purely contractual matter—No interference of High Court through any prerogative writ—Petition dismissed with costs.*

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*Held*, that the recitals in the advertisement do not show anywhere that the invitation was from people interested for establishing dealership of petroleum products. On the other hand, the invitation was for offer of sale or lease for establishment retail outlets of the second respondent company. Secondly, the owner of the property himself was not the dealer. The owner was the petitioner's brother and the dealership had been offered to the petitioner not for a long period of 30 years.

(Para 5)

*Further held*, that the plea of promissory estoppel has no meaning in a case where the transaction clearly spells out the respective rights and duties between the parties. The petitioner cannot lay claim to a larger right to hold on to possession that what is secured through specific promise ascertained under the contract. The conduct of the second respondent as a public body could be amenable to the writ jurisdiction of the High Court but when the actions of the second respondent are driven by contractual promises and are definite in nature, there is nothing arbitrary about the cancellation of the contract. There is nothing available for intervention.

(Para 7)

Dr. Balram Gupta, Sr. Advocate, with R.D. Gupta, Advocate, for  
the *Petitioner*

Karminder Singh, Advocate, for respondent No. 1-U.O.I.

Atul Nehra, Advocate, for respondent Nos. 2 and 3.

None for respondent No. 4

**K. KANNAN, J.**

1. The petitioner challenges through this writ petition, the notice of cancellation of the dealership to operate the retail of the respondent No. 2—Petroleum Company and a demand by the Company to handover the premises or to settling accounts and sale. The cancellation of the dealership agreement had been on the ground that the outlet had been offered on temporary basis subject to after 15 days of notice and that the notice was given terminating the same and requiring the delivery of the premises.

(2) The petitioner feels aggrieved that advertisement issued by respondent No. 2 on 21st May, 2002 inviting persons, who were exclusive owners or co-owners of the property was to enter into a contract for transfer of plot of land by way of sale/lease for a period of minimum 30 years with renewal option to the second respondent and therefore he had offered his property on leave under the belief that he would also be granted long period of dealership for establishing the outlet. Lease deed was executed for a period of 30 years on 24th July, 2003 under such a belief and by letter dated 25th August, 2005, the dealership was offered to the petitioner. During the subsistence of the period of dealership, the second respondent was purported to be guided by a policy of Government of India through the Ministry of Parliament Natural Gas which envisaged a scheme of operating of retail outlets to provide commercial freedom to the public sector Oil Marketing Companies (OMCs) and Companies Owned Company Operated (COCO) entities. The policy also envisaged phasing out of the temporary COCO retail outlets within a period of one year and offering and handing over such outlets to pending letter of intent-holders. The policy statement had been issued on 6th September, 2006 and the cancellation of the dealership scheme of the petitioner was purported to have been initiated by the change in a policy.

(3) The attempt of the petitioner by this writ petition was to show that the second respondent, which was fully owned Government Company was an instrumentality of State and all its activities shall be tested by the parameters of fairness answering to the Constitutional mandate of Article 14. The policy consideration of the year 2006 ought not to alter existing contracts which had been formulated even earlier and the premature cancellation of the contract of dealership and a demand for resumption of the property was arbitrary and unjustified. The dealership is being claimed by the petitioner to have been awarded on a permanent basis, though the arrangement itself was for an initial period of two years, by the assurance by the third respondent, who the Chief Regional Manager of the second respondent company. Acting on the alleged promise, the petitioner purports to have made substantial investments running to several lacs of rupees and the petitioner purports to have promoted sale of petroleum products to rural consumers on credit basis, worth lacs of rupees. The premature termination of such an arrangement of the dealership was grossly unjust and the

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respondents were barred by promissory estoppel from terminating the dealership and recalling the property to be handed over to the respondent. The option for renewal of lease was alleged to have been provided for on a fundamental premise that at the time when the advertisement had been issued for sale or lease of the property, there had been no specific reference that it was intended to be taken by sale or lease with no concomitant assurance to give a dealership of petroleum outlets and that it was intended that the second respondent could retain a complete liberty to grant the dealership even to a third party.

(4) To ascertain whether the advertisement suggested any inference by the person who was invited through such process to make offer for sale or lease that he would also be assured of a grant of dealership in relation to the property, regard must be had only to the text of advertisement itself. The advertisement reads as follow :—

“from absolute and exclusive owners or co-owners of parties having interest in the land if they have already entered into registered agreement for sale before the date of release of his advertisement, for transfer of plot of land by way of Sale/Lease (minimum 30 years with renewal options ) to M/s Hindustan Petroleum Corporation Limited to set up a RETAIL OUTLET at the following locations”

This advertisement nowhere suggests that there was any promise for giving the dealership also to the person who was offering the property on sale or lease. The learned Sr. Counsel Dr. Balram Gupta would only submit that the way a contemporaneous document came about would itself show that the advertisement meant an assurance for grant of the dealership also. By pointing out that after the advertisement, lease was executed in favour of the petitioner's brother on 24th August, 2003 and the dealership was offered to the petitioner in about two years time on 25th August, 2005 learned counsel submits that a large extent of property measuring 2500 square meters could never have been offered for such a long period of 30 years for Rs. 4900 per month initially for a period of five years and providing for very modest escalation of rents reaching up to Rs. 9856 per month for the last quinquennial period. The learned counsel contends that it would have absolutely foolhardy on his part or of any person to surrender

such a large extent without definite assurance that the dealership could be granted only to owner or co-owners. The fact that dealership was also within given a short time was further confirmation of the fact that the advertised lease of land and dealership of outlet were all part of the same transaction, one linked to the other.

(5) The contention in my view, is completely divorced from the recitals of the respective documents. The recitals in the advertisement have already been extracted and they do not show anywhere that the invitation was from people interested for establishing dealership of petroleum products. On the other hand, the invitation was for offer of sale or lease for establishment retail outlets of the second respondent company. Secondly, the owner of the property himself was not the dealer. The owner was the petitioner's brother and the dealership had been offered to the petitioner not for a long period of 30 years. On the other hand, Clauses 2 and 3 in document offering the dealership clearly reveal that it was merely temporary and the expressions in the document are reproduced here :

"2. *Accordingly we hereby appoint you as a temporary dealer to operate the said outlet solely on temporary basis subject to termination by either party giving to the other 15 days notice in that behalf.*

3. *The Retail Outlet business will be conducted by you purely on temporary basis without any claim or entitlement for regular dealership."*

The initial period of the document itself was restricted to one year through clause No. 6 and the tenor of the document refers only to the transaction as leave and license and permission for running of the outlet as on temporary arrangement. In the face of such recitals it shall be naive and untenable for the petitioner to contend that there was an assurance for permanent dealership.

(6) When notice had been issued terminating the dealership it could be attacked only if there was any breach of contract. The letter dated 29th January, 2009 provided for 15 days notice for termination of the arrangement that made reference to the memo letter dated 25th August, 2005, by advertising the petitioner as *ad hoc* dealer. The subsequent letter dated

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2nd June, 2009 directs the handing over of the retail outlet and the third letter dated 19th June, 2009 has advised the petitioner to hand over the petrol pump after the notice period on 25th June, 2009 There is no scope for interference in a purely contractual matters by affording to the petitioner a remedy through any prerogative writ.

(7) The plea of promissory estoppel has no meaning in a case where the transaction clearly spells out the respective right and duties between the parties. The petitioner cannot lay claim to a large right to hold on to possession than what is secured through specific promise as ascertained under the contract. The conduct of the second respondent as a public body could be amenable to the writ jurisdiction of the High Court but when the actions of the second respondent are driven by contractual promises and are definite in nature, there is nothing arbitrary about the cancellation of the contract. There is nothing available for intervention.

(8) The learned counsel appearing for the petitioner states that a policy consideration of 2006 cannot be applied retrospectively. Where rights of parties are governed by contract and there is a mode prescribed for terminating the contract and that mode was set in motion, the petitioner can have no relief through a writ petition pleading for permanent status in dealership. The statement of policy is only incidental to our consideration and it has to be set in its proper perspective to examine, if need be, whether the second respondent's conduct was reasonable or not. The statement of a policy consideration for vacating premises from the hands of a temporary dealer is an additional ground to test the reasonableness of the demand of the second respondent, though not a necessary test for examining the reasonable act.

(9) The writ petition is wholly without merit and dismissed with costs assessed at Rs. 10,000. The learned counsel for the petitioner states that he would be put to hardship if he is directed to remove himself from the property. The petitioner shall have one month period to remove himself from the property with all the fixtures which he is entitled to remove under the contractual terms.

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**R.N.R.**