

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

Date of decision: 19.12.2015

CWP No.26488 of 2015

Prem Chand		... Petitioner
	Versus	
The State of Punjab & ors.		... Respondents

CWP No.26497 of 2015

Sawinder Pal		... Petitioner
	Versus	
The State of Punjab & ors.		... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. GP Vashisht, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

This order will dispose of writ petitions bearing No.26488 and 26497 of 2015 as common questions of law and fact are involved in them which can conveniently be decided by a common order. The facts are taken from CWP No.26488 of 2015 for the sake of convenience.

Annexure P-1 is not a letter of appointment. It is a retainership agreement executed between the Senior Medical Officer, In-charge, Civil Hospital Gurdaspur and Prem Chand, son of Ram Lal, the petitioner. The petitioner is before this Court in this petition filed under Article 226 of the Constitution of India expecting a mandamus would be issued to the State to declare that he is an employee of the Health

Department, Punjab in Civil Hospital Gurdaspur. The contract between the parties is placed at Annexure P-1 which specifically stipulates that the contract is on retainership basis on call to provide services as an electrician on the three terms and conditions recited in the contract dated September 2, 2002. It is apparent that the retainership between the parties is one of the contract for service and not contract of service with no element of employment relationship of 'employer-employee'. There is total absence of any offer and acceptance of a regular job to serve on a cadre post. Rather apparently, the contract is one for maintenance and to keep in good repair the electrical requirements in the Hospital, as and when required. The petitioner is in the position of no more than a contractor providing skilled service to restore breakdowns in distribution of electric supply within the Hospital. The petitioners have no legal right to claim a post nor are the respondents obliged to treat them as full time regular hands. No interference is warranted in both the petitions.

The petitions are, accordingly, dismissed.

(RAJIV NARAIN RAINA)
JUDGE

19.12.2015
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