

CWP No.20031 of 2014 (O&M);
CWP No.22001 of 2014 (O&M) &
CWP No.7480 of 2016 (O&M)

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

Date of decision: 28.05.2016

CWP No.20031 of 2014 (O&M)

Gurmukh Singh ...Petitioner

Vs.

State of Punjab & others ...Respondents

CWP No.22001 of 2014 (O&M)

Siman & others ...Petitioners

Vs.

Dr. B.R.Ambedkar National Institute of Technology, ...Respondents
Jalandhar & another

CWP No.7480 of 2016 (O&M)

Jagjeevan & others ...Petitioners

Vs.

Dr. B.R.Ambedkar National Institute of Technology, ...Respondents
Jalandhar & another

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Munish Behl, Advocate, for the petitioner
in CWP No.20031 of 2014.

Mr. R.S.Bajaj, Advocate, for the petitioners
in CWP No.22001 of 2014.

Mr. Jagjit Singh, Advocate, for the petitioners
in CWP No.7480 of 2016.

Mr. Harkesh Manuja, Addl. AG, Punjab.

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Mr. I.S.Sidhu, Advocate, for respondents No.2 & 3
 in CWP No.20031 of 2014.

Mr. Vivek Singla, Advocate, for the respondents
 in CWP No.7480 of 2016.

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 the above mentioned three writ petitions, as common questions of law are involved in them, which can conveniently be decided by a common order.

CWP No.20031 of 2014

The appointment is purely contractual in nature and, therefore, not in consonance with the scheme of appointments under Article 16 of the Constitution though posts were advertised on contract. The petitioner was appointed as Driver in a running pay scale in Punjab Bio Technology Incubator (PBTI). He has been working since 2013. He has approached this Court in 2014 fearing that he will be replaced by another contractual employee. He claims absorption and regularization of service.

In the written statement filed by the respondents, it has been disclosed that the petitioner's conduct was not over board and he was issued an explanation letter. In his reply (Annex R-5), he admitted to the committing misdemeanour. This takes him to the exception to retention in services and replacement by regular hands.

While this Court passes orders protecting contractual employees from being replaced by contractual employees pending regular recruitment, it also enters a caveat that work and conduct should be satisfactory. Otherwise, anti replacement theory will not hold good.

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Consequently, I do not find any error in the order of termination in the case of the petitioner whose service was purely contractual.

Mr. Inderjit Singh Sidhu representing respondents in CWP No.20031 of 2014 points out that the petitioner filed a contempt petition bearing COCP No.768 of 2015 complaining that the interim order passed by this Court had not been complied with. The said contempt petition was dismissed on 07.08.2015. No merit. Dismissed.

CWP No.22001 of 2014

This case involves employment with Dr. B.R.Ambedkar National Institute of Technology, Jalandhar. The petitioners shall suffer the same order as above, but *mutatis mutandis* inasmuch as no explanation letter was called from them for any deviation from expected conduct as an employee. In this case the defence in the written statement is that the petitioners were not appointed against the sanctioned posts and, therefore, they cannot make a claim for absorption as regular employees. Availability of sanctioned posts is sine qua non for consideration. It is neither illegal to outsource work if the Management thinks it more suitable to its felt needs. The petitioners cannot dictate terms to the respondents. No order can be passed as prayed for in Prayer-(ii) that only be reason of length of service, the petitioners be absorbed and regularized into service of the Institute. No merit. Dismissed.

CWP No.7480 of 2016

This case came up for hearing on 28.04.2016 before a Coordinate Bench (P.B.Bajanthri, J.), where it was argued by the counsel for the petitioners that a similar matter i.e. CWP No.20031 of 2014 is listed before me and accordingly the Bench directed the listing of this case with

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CWP No.20031 of 2016 (supra) as asked for at the hearing. That is how the file has been placed before me for decision.

However, during the course of arguments, it has been pointed out by Mr. Vivek Singla that this case falls in the category of CWP No.22001 of 2014, where the defence is that appointments were not made against sanctioned posts. Consequently, this petition will suffer the same end result.

In view of the above discussion and from the standpoints arrived at, I find that no ground for interference is made out in these petitions for issuance of directions commanding the respondents to reinstate or absorb the petitioners in view of law and the prohibitions placed on exercise of writ jurisdiction in Secretary, State of Karnataka & others Vs. Umadevi & others, (2006) 4 SCC 1 [CB]. The doctrine of legitimate expectation cannot be invoked as no promise was made and conveyed. Accordingly, the petitions are declined and writ is refused in the three cases. No costs.

27.05.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE