

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

CWP No.388 of 2016

Date of decision:8.2.2016

Mahavir Sharma

... Petitioner

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. Puneet Sharma, 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)

1. This is a matter pertaining to a charge of disobeying receiving and avoiding service of the impugned termination order. The action has been brought against the Dayanand Medical College & Hospital, Ludhiana, Punjab which is the employer.

2. A writ filed under Article 226 of the Constitution by an employee in a service matter is not maintainable against an employer society since the employment relationship is in the nature of a contract of personal service which is not specifically enforceable and an action brought in a court of law can only sound in damages as explained by the Supreme Court in **Executive Committee of Vaish Degree College Shamli and others v. Laxmi Narain and others** AIR 1976 SC 888. The writ court is not the forum to award damages for breach of contract of employment when the employer is not State or “other authority”

constituted under a statute or is covered by the provisions of the Industrial Disputes Act, 1947.

3. The writ petition is therefore dismissed as not maintainable in writ jurisdiction with liberty to the petitioner to take recourse to any other remedy available to him in law including recourse before a civil court or before the industrial adjudicator, in case the petitioner qualifies as workman, if advised.

(RAJIV NARAIN RAINA)
JUDGE

8.2.2016
monika