

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

230

**CWP No. 21468 of 2014**

**Date of decision: 18.05.2017**

Gurvinder Singh

**...PETITIONER**

**VERSUS**

State of Punjab and others

**...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. I.D.Singla, Advocate,  
for the petitioner.

Mr. Vaibhav Sharma, Deputy Advocate General, Punjab,  
for respondent No. 1/State.

Mr. Vijay Sharma, Advocate,  
for respondents No. 2 and 3.

Mr. I.S.Sidhu, Advocate,  
for respondent No. 4.

\*\*\*

**AUGUSTINE GEORGE MASIH, J. (ORAL)**

Petitioner has approached this Court seeking a writ of mandamus directing the respondents to continue the petitioner as a Clerk on contract basis where he was appointed initially vide order dated 08.12.2010 in the Minority Commission, Punjab, for a period of one year. Fresh appointment order on contract basis was given but thereafter, it has not been extended on expiry of contract period. Some other person has been appointed on contract. Counsel, thus, submits that he has been replaced by another contractual employee, which is not permissible in law. Placing

**Sharma vs. Union Territory of Chandigarh and others**, 2005 (3) RSJ 527 and **Hitesh Thakur vs. The Chairman, Managing Committee, National Horticulture Board, Gurgaon and others**, 2006 (1) RSJ 438, he asserts that the respondents have violated the principle, as has been laid down in these Division Bench judgments, where it has been held that the contractual employees cannot be replaced by other contractual employees.

Reply to the writ petition has been filed, wherein it has been stated that as a stopgap arrangement, sanction has been accorded by the competent authority vide communication dated 01.10.2010 (Annexure R-2/1) for payment of salary and allowances to the employees to be appointed on contract/outsourced basis as per the Government Instructions. On that basis, it has been asserted that the nature of appointment is purely contractual and has no semblance of regular employment. The judgments, on which reliance has been placed by the counsel for the petitioner, are those where regular posts were available, on which contractual appointments were being made and in such circumstances, after the completion or termination of the contractual employment, another employee on contract basis had been appointed. The said principle, therefore, would not be applicable to the case in hand rather the claim of the petitioner is covered against him by the judgment of this Court in CWP No. 17836 of 2013 titled as **Joginder Singh and others vs. Union of India and others**, decided on 30.06.2015 (Annexure R-2/3).

I have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the records of the case as well as the judgments, referred to above.

The contention of the learned counsel for the petitioner carries

weight as a perusal of the communication dated 01.10.2010 leaves no manner of doubt that the sanction has been accorded to appoint the office staff and the driver on contract/outsourced basis as per the Government Instructions. The nature of the post, thus, is purely contractual.

If that be so, the grievance, as has been highlighted by the petitioner that he has been replaced by another contractual employee, which is not permissible as per the judgments passed by this Court in Sangeeta Sharma's case (supra) and Hitesh Thakur's case (supra), would not be applicable to the case of the petitioner.

In the considered view of this Court, the claim of the petitioner is covered against him by the judgment passed by the Co-ordinate Bench in Joginder Singh's case (supra), wherein it has been held as follows:-

“ Learned counsel for the petitioners have strenuously urged before me that the petitioners, who were contractual employees, could not be replaced by another set of contractual employees. To support their submission, they have relied upon several judgments of the Apex Court, this Court, as also other High Courts. In the case in hand, the posts in question are contractual in nature and as per the Scheme, are required to be filled up only on contractual basis. This part of the Scheme is not under challenge by the petitioners. That being so, posts, which are contractual in nature, would necessarily be filled up through employees, to be appointed on contract. The judgments cited by the counsel for the petitioners pertain to posts, which are regular in nature, wherein directions have been issued not to replace employees appointed on contract basis by another set

of contractual employees till regular appointments are made. In view of the facts of the case in hand, this situation could not arise herein.”

In view of the above, finding no merit in the present writ petition, the same stands dismissed.

**May 18, 2017**  
*pj*

**(AUGUSTINE GEORGE MASIH)**  
**JUDGE**

**Whether speaking/reasoned: Yes**

**Whether Reportable: No**