

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

CWP No.755 of 2019 (O&M)

Date of decision:28.08.2019

Dal Bahadur

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ajay Chaudhary, Advocate
for the petitioner.

Mr. R.K.Doan, AAG, Haryana.

Mr. S.P.Arora, Advocate
for respondents no.2 and 3.

AMIT RAWAL J. (Oral)

C.M.No.9921 of 2019

The application is allowed, subject to all just exceptions.

Replication is taken on record.

CWP No.755 of 2019 (O&M)

Challenge in present writ petition is to the impugned order dated 31.12.2018 (Annexure P-3), whereby, on account of non-availability of the vehicle having become condom, services of the petitioner working as a driver, have been dispensed with.

Learned counsel appearing on behalf of the petitioner submitted that in the year 1999, vide appointment letter dated 17.04.1999, (Annexure P-1), petitioner was appointed as a driver and after finding his

services to be satisfactory, his services were regularized vide order dated 27.10.2004 (Annexure P-2). The petitioner had been discharging the duties to the utmost satisfaction and dedication, without any demur or complaint, in other words, had impeccable record. No doubt, respondent no.3 has not purchased the vehicle but he can always be considered for appointment as and when any vehicle is purchased.

Per contra, Mr. S.P.Arora, learned counsel appearing on behalf of respondents no.2 and 3 raised objection qua maintainability of writ petition as Government has to purchase the vehicles and therefore, writ petition is not maintainable as per the provisions of Article 12 of Constitution of India. In such circumstances, remedy for the petitioner lies elsewhere. As regards, purchase of vehicle, he submitted that there is no intention of purchasing the vehicle.

I have heard learned counsel for the parties, appraised paper book and of view that there is no force and merit in the submissions of Mr. Chaudhary. An attempt has been made to bring the case within the realm of Article 226 of Constitution of India by referring to Annexures P-4 to P-6 where Deputy Commissioner-cum-President, Bhartiya Grameen Mahila Samiti, Sirsa had issued appointment letters. Mr. Arora, Advocate has made an attempt to non-suit the petitioner on account of maintainability as the Deputy Commissioner has no role to play.

Keeping question of maintainability open, I am of the view that petitioner cannot implore on the respondents for employment, even if they intend to buy the vehicle which can always be through open competition as

law of pre-emption would not apply in matters pertaining to service jurisprudence.

No ground is made out for interference.

Dismissed.

August 28, 2019

savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No