

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

110

**CWP No.16140 of 2020
Decided on :05.10.2020**

Ajay and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present : Mr. Kuldeep Sheoran, Advocate
for the petitioners.

(The proceedings are being conducted through
video conferencing as per instructions.)

G.S. Sandhawalia, J. (Oral)

In the present writ petition filed under Articles 226/227 of the Constitution of India, petitioners seek directions to set aside the action of respondents whereby they have been replaced with the private respondent Nos.8 to 12 on account of posts of Sweepers and Security Guards on the basis of outsourcing service policy dated 06.04.2015 (Annexure P-1).

Counsel for the petitioners has vehemently submitted that the petitioners were appointed on the following dates:

Sr. No.	Name of the petitioner	DOJ	Place of posting	Date of termination	Replaced by
1	Ajay	11.06.2019	CHC Barwala	24.06.2020	Nakul
2	Sunita	29.07.2019	CHC Sorkhi	01.07.2020	Ram Niwas
3	Ramesh	08.06.2018	CHC Tohana	03.07.2020	Sandeep
4	Arvind	15.06.2019	CHC Narnaund	01.05.2020	Surender
5	Manphool	25.04.2018	CHC Tohana	28.02.2020	Kavita

It is specifically averred that the contractor respondent No.7 has replaced the petitioners with the other employees and there is also issue

regarding the complaint of EPF and ESI of the petitioners. One of the relieving order dated 26.06.2020 of petitioner No.3 passed by respondent No.7 has been placed on record as Annexure P-2.

It is thus apparent that the petitioners have never been appointed by the official respondents in any manner and have been working with the outsourcing agency and cannot seek continuation at the State exchequer. Disputed question arises as such who is employer of the petitioners as the appointment orders have not been placed on record. The petitioners have also not worked for long period as such as per the table. If the petitioners have any grudge it is always open to them to agitate for their rights before the Labour Court whereby they can claim that they had worked for requisite period of 240 days and that they have preferential right of appointment.

Counsel for the petitioners has placed reliance upon the decision dated 03.08.2016 passed in CWP No.17441 of 2013 titled as *Shiv Kumar and another Vs. State of Haryana and another*, which would not take the petitioners far. The said petition had been filed on the verge of expiry of the contractual period and the interim order had been passed that the service of the petitioners be not dispensed with. The petitioners thereafter continued till 03.08.2016 and the writ petition was disposed of with direction that petitioners would not be replaced by other contractual employees. In the present case services of the petitioners already have been dispensed with.

It was also noticed by the Co-ordinate Bench that the

appointment letters in that case had been issued by the Director General, Horticulture himself and no such directions have been issued in the present case. None of the petitioners having been appointed by the official respondents the writ petition would not be maintainable against a private respondent and would not warrant interference by this Court.

Accordingly, there is no merit in present writ and the same is dismissed with the aforesaid liberty.

05.10.2020

Parveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No