

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10934 of 2021

Date of decision:29.06.2021

Sanjeev Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Nitin Kumar Sharma, Advocate for
Mr. Pawan Attri, Advocate,
for the petitioner.

(The proceedings are 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, the petitioner challenges the order dated 03.01.2020 (Annexure P-4) whereby respondent no.3 has come to the conclusion that the petitioner, alongwith his wife Pooja, were allegedly working on temporary basis since 2014 in the Government Girls Senior Secondary School, Pehowa but they had never been given any appointment letters. It was noticed that there was no regular employee on the post of Sweeper-cum-Chowkidar before 12.07.2019 and after joining of the regular employee, there was no need for any daily wage employee. The claim of the petitioner that the petitioner and his wife were appointed on part time basis was also, thus, rejected and the case for taking them back in service was also declined.

Respondent no.2 has approved the said order on 07.02.2020 (Annexure P-5) by noticing that two Class-IV employees were regularized to the post of Mali-cum-Waterman and Sweeper-cum-Chowkidar w.e.f.

12.07.2019 and, therefore, once regular appointments were made, the claim

made in the legal notice dated 22.08.2019 (Annexure P-2) was not tenable. It is noticed that the payment of the amount for the period for which the petitioner had worked along with his wife had also been made as per the report of the Principal and there was no outstanding, as such.

Perusal of the paper book would go on to show that the petitioner was only engaged by the Principal at his own level and there was no such regular appointment offered to him as no such appointment letter has been placed on record, apart from the identity card.

In such circumstances, any direction to take the petitioner back in service against the alleged vacant post of Peon-cum-Sweeper is not liable to be issued. The grant of mandamus in affirmative to enforce legal rights of the petitioner is not made out in absence of any appointment order and if any such arrangement was made by the Principal, it did not give any absolute right to the petitioner to invoke the extraordinary writ jurisdiction of this Court.

Resultantly, this Court is not inclined to interfere in the orders passed by respondent nos.2 and 3 and, thus, the present writ petition is dismissed in limine.

June 29, 2021
vinod*

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No