

Sr. No.121

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

CWP No.26507-2021

Date of decision: 23.12.2021

Khushi Ram

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Karan Singh, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioner herein, inter alia, seeks issuance of a writ in the nature of mandamus directing the respondents not to replace him with another set of contractual employee.

2. Learned counsel for the petitioner submits that petitioner was appointed as Sweeper in the year 2012. Since then, he has been working with respondent-department diligently. On 14.11.2021, petitioner was diagnosed with Appendix emergency and he had to admit at PGIMER, Chandigarh for surgery. He was discharged from hospital on 21.11.2021. Petitioner was advised bed rest for 20 days. Accordingly, on 22.11.2021 he applied for leave. On 13.12.2021, when the petitioner went to join on duty, he was not allowed to do so. Hence, the instant petition.

3. I have heard learned counsel for the parties and gone through the case file.

4. There is no formal order of dispensing with the services of the petitioner by the competent authority. Learned counsel for the petitioner, on a Court query as to how the petition is maintainable, submits that despite the

petitioner having worked for more than 09 years, when he reported for work after his surgery, he was not allowed to join duty. Petitioner could report for work earlier since he was earlier bedridden for 28 days, having undergone a major surgery at PGIMER, Chandigarh for perforated Appendix. He submits that petitioner had though intimated the authorities of his sickness and his impending surgery before proceeding on leave, and yet he is being denied to join duties on the post.

5. Learned State counsel, on advance service, appears and submits that per his instructions that there is no adverse order passed qua the petitioner with regard to dispensation of his services and the writ petition has been filed prematurely.

6. Be that as it may, let this petition be treated as a representation by the competent authority and upon verification of the sickness of the petitioner, and on being produced relevant medical record, he will be allowed to join services subject, of course, to the requirement of services on the post, which was being handled by the petitioner prior to his proceeding on sick leave.

7. Let the needful be done within a period of 30 days from today.

8. Disposed of accordingly.

December 23, 2021
Vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No