

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

CWP-17769-2021

Date of Decision: 07.02.2022

MONTI

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. G.C. Shahpuri, Advocate
for the petitioner.

Ms. Kirti Singh, D.A.G., Haryana.

(Presence marked through Video Conference)

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of *mandamus* directing the respondents not to replace the petitioner from service as part time 'Tubewell Operator' with another daily wager or with the similarly situated employee in the absence of regular employee.

2. Learned counsel for the petitioner submits that the petitioner was appointed as part time 'Tubewell Operator' on 01.01.2020 with respondents No.3 and 4 but later on, his services have been replaced with the same set of employee i.e. respondent No.6. He relies on the Apex Court's judgment in the case of "*Hargurpartap Singh versus State of Punjab and others*" reported as **2007(13) SCC 292** wherein it is held that the employees working on *ad hoc* basis may not claim regularization but their services should not be terminated till regular appointments are made.

3. Learned State counsel, on service of advance notice, joins proceedings and opposes the issuance of notice of motion.

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

5. Per pleaded case, petitioner has not annexed any proof of terms of his engagement or any appointment letter. However, learned counsel for the petitioner strenuously argues on the basis of recommendation/certificate (Annexure P-5) issued by Gram Panchayat, Kharwan Chhachrauli, District Yamuna Nagar. He submits that certificate shows that petitioner has been working on the post of 'Pump Operator' for the past about 1½ year. In the petition, the petitioner asserts that he has been replaced by another set of contractual employee i.e. respondent No.6, whereas, the same could not be done in the light of *Hargurpartap Singh's case (supra)*. He invokes the principle that contractual employee cannot be replaced by another contractual employee.

6. Concededly, the petitioner was working as part time 'Tubewell Operator'. He does not therefore enjoy any statutory protection. Nor can he claim any vested right to seek mandamus for staking claim on a contractual job.

7. Be that as it may, the petition is disposed of with liberty to the petitioner to approach the concerned Gram Panchayat who shall take up the issue with the respondent authorities, provided of course, if it requires the services of the petitioner on the post of 'Pump Operator'.

(ARUN MONGA)
JUDGE

07.02.2022
gurpreet

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No