

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

107

**CWP-22002-2022
Decided on : 23.09.2022**

Lt. Col. Amit Kumar Singh

.....Petitioner(s)

Versus

Central Administrative Tribunal, Chandigarh Bench and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE JAGMOHAN BANSAL**

Present: Mr. Navdeep Singh, Advocate for the petitioner (s).

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the pendency of Original Application No.554 of 2022 before respondent No.1-Central Administrative Tribunal, Chandigarh Bench (hereinafter referred to as 'the Tribunal') on the ground of *coram non judice*.

Primarily it seems that the petitioner is aggrieved on account of interim order having been passed in favour of private respondent Nos.2 to 4 on 09.06.2022 (Annexure P-7), wherein the said respondents, who are working as Malis since 2014 were sought to be replaced by other similarly situated set of persons. Resultantly, the Tribunal has allowed them to continue to work without compelling them to sign the contract with the outsourcing agency.

Mr. Navdeep Singh has vehemently argued that there is an issue of jurisdiction, which has been raised before the Tribunal regarding the lack of maintainability of the petition on the ground that the said respondents are drawing pay from regimental funds and in such

circumstances he justifies the filing of present petition. It is further submitted that even a contempt notice has been issued on 04.07.2022 (Annexure P-15) in contempt petition bearing CP No.28 of 2022, in which senior officers have been asked to be present including the petitioner.

We have perused the notice, which has been issued and it is, thus, apparent that the appearance has been asked through a duly authorized advocate and the personal appearance has been exempted until further orders.

We are of the considered opinion that the present petition is a case of over reaction by the petitioner. It is not disputed that an application for vacation of stay bearing MA No.1156 of 2022 (Annexure P-3) has also been filed, in which notice was issued to the counsel for the applicants, who accepted notice, which would be clear from the order dated 22.06.2022 (Annexure P-8). A perusal of the order dated 20.07.2022 (Annexure P-9) would go on to show that even reply to the said application has been filed and the next date of hearing is stated to be 03.10.2022 and 04.10.2022.

Keeping in view the above, we are of the considered opinion that the matter is still pending before the Tribunal, which would decide the issue of continuance of interim order and the issue of jurisdiction necessarily. It is not for this Court at the first instance to take over the issue which is a mixed question of law and facts. It is also to be noticed that the private respondents are poor Class-IV employees and we do not wish also to foist upon them the burden of contesting this litigation unnecessarily.

In such circumstances, we are of the considered opinion that the present petition is premature and is disposed of accordingly. It is always open to the petitioner to agitate for the disposal of the application for vacation of stay at the earliest. Resultantly, it would be appropriate if the Tribunal decides this issue as early as possible.

With the aforesaid observations the present petition stands disposed of.

(G.S. SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

23.09.2022
Naveen

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No