

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

CWP-23810-2022 (O&M)

Date of decision: November 29, 2022

Priyawart

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Jagjeet Beniwal, Advocate for the petitioner.

Mr. Pankaj Middha, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus seeking direction to the respondents to terminate the services of respondent No.9 from the post of Conductor. Allegedly, he was not having a valid conductor license at the time of joining the said post and thus, did not fulfill essential qualification, as provided in the Haryana State Transport Department Rules, and to prosecute respondent No.9 for committing a fraud.

2. Pledged case is that petitioner had filed a complaint against respondent No.9 for committing fraud in order to get the Government job with the Department as Conductor. Respondent No.9 was pursuing LL.B as well as doing Government job without seeking any permission from the competent authority. Respondent No.9 was not fulfilling the essential qualification at the time of applying for the said post. In the year 2019, during probation period, respondent No.9 remained absent for 15 days without informing respondent No.3, but no action has been taken against him and at

that point of time, he had completed his law course from Ravinder Nath Tagore University (Madhya Pradesh). As per enquiry reports through CM window dated 31.03.2022 and 06.04.2022 (Annexure P-3 Colly.), respondent No.9 remained absent from his duty from 01.04.2019 to 11.06.2019. Petitioner also filed an application in CM Window to verify the actual facts of complaint. It is also alleged that respondent No.9 was charge-sheeted under Rule 4(a) of the Haryana Civil Services Rules, 2016 and proceedings are going on. However, till date no action has been taken by the competent authority. Hence the instant petition.

3. I have heard rival contentions of learned counsel for the parties and gone through the record.

4. *Ex facie* disputed question of facts are involved in the petition, including allegation of fraud etc., which cannot be gone into merely on the basis of affidavits. This Court is not inclined under the extraordinary writ jurisdiction to thrash out the disputed factual matrix involved herein.

5. Writ petition is, therefore, dismissed with liberty to the petitioner to seek appropriate civil remedy, as may be available.

6. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

November 29, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No