

113

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

CWP NO. 25134 OF 2022

DATE OF DECISION: 23.11.2022

Sooraj and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Vivek Khatri, Advocate,
for the petitioners.

Mr. Pankaj Middha, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of an appropriate writ in the nature of Certiorari for quashing impugned replies dated 23.08.2022 (Annexure P-8) issued by respondents No.4 and 11, dated 08.09.2022 (Annexure P-9) issued by respondent No.13, dated 09.09.2022 (Annexure P-10) issued by respondents No.8 and 15 and dated 20.09.2022 (Annexures P-11 and P-12) issued by respondent No.16, whereby claim of the petitioners for stepping up of their monthly honorarium/remuneration at par with Ayushman Mitras of other districts, has not been considered.

2. Pledged case of the petitioner is that in order to streamline the health service delivery and provide a seamless experience to the beneficiaries, National Health agency of Health Department, Haryana proposed the institutionalization of Ayushman Mitra, which is a certified frontline health service professional, who shall be present at the EHCP and shall serve as a first contact for beneficiaries. On the basis of their

respective qualifications, petitioners were engaged in the respondent-department in the year 2018 as Ayushman Mitras in different districts of Haryana. They were engaged against fixed remuneration of Rs.5,000/- and a commission of Rs.50/- on completion of every processed claim including verification and storage of beneficiary as a golden record. Presently, the nomenclature for the post of Ayushman Mitra falls within the definition of Skilled Worker and therefore, monthly honorarium/remuneration was increased in different districts. It is the case of petitioners that Ayushman Mitras in other districts are getting monthly honorarium as per the minimum wages fixed by the State government for a skilled worker, but the petitioners are still getting only Rs.5,000/-, as was fixed at the time of their appointment. Therefore, they approached the authorities for stepping up of their honorarium at par with the other similarly situated Ayushman Mitras in different districts, but no heed was paid by the department.

3. *Qua* their aforesaid grievance, petitioners served legal notices dated 01.08.2022, 14.08.2022 and 30.08.2022 (Annexures P-5 to P-7 respectively). Vide impugned replies dated 23.08.2022, 08.09.2022, 09.09.2022 and 20.09.2022 (Annexures P-8 to P-12 respectively), claim of the petitioners was rejected by the respondent-department on the ground that matters relating to payment of monthly honorarium/remuneration or minimum wages to Ayushman Mitras are governed by the Ayushman Bharat, National Health Protection Mission, Ayushman Mitra guidelines 2018 and other guidelines issued by CEO, Ayushman Bharat, Haryana Health Protection Authority from time to time.

4. On advance service of copy of the petition, learned State counsel appears and opposes the petition and submits that claim of the

petitioners has already been considered and rejected by the respondent-department.

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

6. Perusal of the case file reveals that disputed questions of facts are involved herein, which cannot be gone into on the basis of affidavits under the extraordinary writ jurisdiction.

7. Concededly, the petitioners' services were hired on contract basis. The contractual employee has only limited rights confined within the four corners of the contract of employment. It is the prerogative of an employer to continue and/or discontinue with the contractual services in terms of the contract. I am of the view that on the short ground of being a matter of contract, this Court ought not to exercise its extraordinary writ jurisdiction.

8. This Court would refrain from interfering in the domain of the employer's discretion to engage employees on contract.

9. Dismissed with liberty to the petitioners to seek appropriate alternative remedy, as may be advised and available under the law.

NOVEMBER 23, 2022
Shalini

(ARUN MONGA)
JUDGE

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