

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

CWP-16077-2015
Date of decision : 03.07.2023

SATINDER PAL SINGH

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...Petitioner

Versus

UNION TERRITORY OF CHANDIGARH THROUGH ITS
ADVISOR, DELUX BUILDING SECTOR 9, CHANDIGARH
AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Anil Shukla, Advocate
for the petitioner.

Mr. Baljinder S. Bali, ASG
along with Mr. Karanvir, Standing counsel for U.T.,
Chandigarh.

Mr. Deepak Sharma, Advocate
for respondent No.2.

Mr. Abhishek Sharma, Advocate
for respondent No.8.

HARSH BUNGER, J. (ORAL)

Petitioner (Satinder Pal Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of *certiorari* for quashing the appointment of respondents No.5 to 7. A further prayer has been made for issuance of a writ in the nature of *mandamus*, directing respondents No.1 to 4, to appoint the Assistants or Clerks, as per the decision of the Chandigarh Building and other Construction Workers' Welfare Board, held on 29.10.2013 (Annexure P-1).

2. It is the case of the petitioner that the Chandigarh Administration has constituted a Board for the welfare of the workers engaged in the construction of buildings etc., and related construction work, to be carried out within the jurisdiction of Chandigarh Administration and to run the affairs of the Board smoothly, the Board recruited the employees through service provider. As per the petitioner, he was appointed on the post of Clerk on 05.05.2010, whereas, one Sh. KrishanLal, was appointed as an Assistant and another Sh. Dhiraj Malhotra, was appointed as a Clerk. The petitioner claims that he was getting a consolidated salary through the service provider.

3. It is the pleaded case of the petitioner that respondent No.2 i.e. Chandigarh Building and Other Constructions Workers Welfare Board (in short 'the Board'), in its meeting held on 29.10.2013 (Annexure P-1) decided to appoint directly an Accountant, Clerk and Driver by conducting interview and to pay them the salary as per the District Collector(D.C) rate and it was directed that the applications be invited through advertisement. It is alleged that as respondent No.2-Board had taken a decision to appoint Accountant, Clerk and Driver directly; thus, the Board started exerting pressure on the service provider (respondent No.8) to terminate the services of the petitioner and other persons. As per the petitioner, he submitted a resignation to respondent No.8 (service provider) with a view to apply for the post as and when the same is advertised by respondent No.2-Board.

4. As per the petitioner, after discontinuing his services as well as other Clerks/Assistants, respondent No.2-Board instead of advertising the posts as was decided in its meeting dated 29.10.2013; appointed respondents No.5 to 7 again without advertising the posts. The petitioner is stated to have

learnt that respondents No.5 to 7 have been taken on job in the first week of June, 2014 through the service provider; accordingly, he submitted representations (Annexures P-3 to P-5) to respondent No.2-Board; however, no action was thereupon thereupon.

5. It is alleged that respondent No.5 was working as Field Investigator in the Labour Department of the Chandigarh Administration and had retired on 30.06.2011. Similarly, respondent No.6 is stated to be the daughter-in-law of Sh. V.S. Bhargav, the retired Labour Inspector and just to accommodate them, the procedure has not been complied with. It is submitted that the petitioner fulfills all the conditions required for being appointed as a Clerk; however, respondent No.2-Board has appointed respondents No.5 to 7 in a clandestine manner without advertising the posts. Accordingly, it is claimed that the action of respondent No.2-Board is discriminatory in nature as the applications from the eligible candidates have not been invited.

6. With the afore-stated pleas/submissions, the present writ petition has been filed.

7. Upon issuance of notice of motion in this case, written statement on behalf of respondent No.2-Board has been filed, wherein, a stand has been taken that the posts, which were filled up by the private respondents have been managed through the service provider (respondent No.8). It is stated that as far as filling up of the posts of Accountant, Clerk and Driver, as per the decision in the meeting dated 29.10.2013 is concerned, those posts are still lying vacant. It is the stand of respondent No.2-Board that the posts of Accountant and Clerk, were created and sanctioned in the meeting held on 18.02.2013 for proper functioning of the

Board and subsequently, in the meeting dated 29.10.2013 (Annexure P-1), these posts were recommended to be filled along with one additional post of Driver through interview after inviting the applications through the advertisement. It is the categorical stand of respondent No.2-Board that no process has been initiated to fill up the said posts and accordingly, the writ petition was pre-mature. It is also the stand of respondent No.2-Board that the services of the petitioner were being managed by respondent No.8 and the Board had no role to play for appointing and terminating the services of the persons, who were being managed by the service provider. Accordingly, it is submitted that no discrimination has been caused to the petitioner.

8. On the other hand, respondent No.8 has filed a separate written statement, wherein, it is stated that earlier, it was running its business in the name and style of “Ascenture Management Services Private Limited”, which was later (on 18.04.2011), renamed as “Gretis India Private Limited”. It is submitted that the said company is a service provider, duly incorporated under the Companies’ Act and is in the business of rendering various man-power services to various government/ semi-government/ departments/ Corporation etc. on outsourcing basis as per their requirements. It is the categorical stand of respondent No.8 that as per the contract entered into by it with the various departments etc., the employees so engaged by respondent No.8 remain their employees only for all intents and purposes and the petitioner was issued an appointment letter dated 05.05.2010 for the post of Clerk by respondent No.8 itself to work with respondent No.2-Board as per their requirement and the said services of the petitioner are stated to be transferable in nature and vide letter dated 29.05.2014, the petitioner is stated to have been transferred to New Delhi to work with one of the clients

of respondent No.8 and the petitioner was asked to report at the office of the said client; however, instead of reporting at the new place of posting, the petitioner voluntarily submitted his resignation letter dated 10.06.2014 from the post of Clerk by citing some family reasons and the said resignation letter of the petitioner is stated to have been duly accepted by respondent No.8 and the full and final settlement of his dues were accordingly done. Even an experience certificate dated 14.11.2014 is stated to have been issued by respondent No.8 at the asking of the petitioner. It is stated that the petitioner has no *locus standi* to challenge the appointment of respondents No.5 to 7 as he is not in any manner aggrieved or affected by these appointments, inasmuch as that apart from seeking quashing of the appointment of respondents No.5 to 7, no further prayer has been made by the petitioner for seeking appointment against those posts. Accordingly, it submitted that the petition is liable to be dismissed.

9. I have heard learned counsel for the parties and have gone through the paper-book with their able assistance.

10. From the pleadings of the parties, it is manifest that respondents No.5 to 7 were appointed by the service provider and not by respondent No.2-Board. Admittedly, even the petitioner was earlier working with respondent No.8 (service provider); however, he tendered his resignation vide resignation letter dated 10.06.2014 (Annexure R-8/5), which is stated to have been duly accepted by respondent No.8 and all his dues were settled and even the experience certificate dated 14.11.2014 (Annexure R-8/6) was issued to the petitioner by respondent No.8. As far as the contention of the petitioner that a direction may be issued to respondent Nos.1 to 4 to appoint the Assistants or Clerks as per the decision of respondent No.2-Board taken

in its meeting held on 29.10.2013 (Annexure P-1) is concerned, it is the categoric stand of respondent No.2-Board that no process has been initiated to fill up the said posts.

11. In view of the afore-mentioned categoric stand taken by respondent No.2-Board as well as respondent No.8, there is no merit in the instant writ petition and the same is accordingly dismissed.

12. All pending application/s, if any, shall stand closed.

July 03, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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