

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

2025:PHHC:079989



(134)

CWP-18418-2025

Date of Decision: 07.07.2025

Sandeep Kumar

--Petitioner

Versus

State of Haryana & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present:-

Mr. S.K. Nehra, Advocate with
Mr. Viren Nehra, Advocate,
Mr. Rahul Mahajan, Advocate and
Ms. Meghna Nehra, Advocate for
the petitioner.

VINOD S. BHARDWAJ.J (Oral)

The petitioner has approached this Court raising a challenge to the impugned order dated 07.02.2024 (Annexure P-4), whereby the claim of the petitioner for seeking reinstatement on the post of Pharmacist has been rejected by the respondent authorities.

2. Learned counsel appearing on behalf of the petitioner vehemently contends that the petitioner was initially appointed on contract basis against the post of Pharmacist (JSSK) under NRHM Project at General Hospital, Fatehabad on 23.11.2012. The services of the petitioner were terminated on 31.07.2013 followed by his reinstatement on contract basis vide appointment letter dated 31.10.2013. He continued to discharge functions against the said post till 14.09.2018 when his services were dispensed with on 14.09.2018, without assigning any reasons. The said order was challenged in CWP-27977-2018 titled as '**Kapil and another Vs. State of Haryana and others**'. Petitioner Sandeep was

a co-petitioner in the said writ petition. Vide order dated 26.05.2022, the said writ petition was disposed of by this Court by holding as under:-

“4. Petitioners also seek parity with one Manoj Kumar, who was also working as Pharmacist, whose services were also terminated but later he was re-inducted. Stand of the State therein, was that he was not appointed against any vacant regular post. Vide Award dated 19.01.2017 (Annexure P-9) passed by the Labour Court-cum-Industrial Tribunal, the industrial dispute raised by workman Manoj Kumar was answered in his favour. Pursuant thereto, said Manoj Kumar was reinstated vide order dated 03.05.2017 (Annexure P-10). Hence the present petition.

5. Be that as it may, during the pendency of the writ proceedings, while services of petitioner No.1 have been retained even though the stand taken in the return is that service of both the petitioners had to be dispensed with in order to make way for regular appointees. Writ petition qua petitioner No.1 in any case is rendered infructuous and disposed of accordingly.

6. As regards petitioner No.2-Sandeep Kumar, it transpires that during the pendency of writ petition, State government has taken a policy decision to outsource the contractual employees through a newly set up Haryana Kaushal Rozgar Nigam.

7. In the premise, the writ petition qua petitioner No.2 stands disposed of with an expectation that the respondents shall accommodate petitioner No.2 by giving the benefit of length of his contractual service and entertain his application in case he applies to be taken back in service on contract basis through the aforesaid Nigam.

8. Disposed of, as above.”

3. Learned counsel for the petitioner contends that even after the disposal of the aforesaid writ petition and the direction contained therein, the petitioner was not registered on the portal of HKRN for the reason that he did not have his EPF/ESI number. On 24.11.2022, the office of Civil Surgeon, Fatehabad requested the HKRN to register the petitioner

on its portal without insisting on EPF/ESI number and to ensure compliance of order dated 26.05.2022 passed by this Court. It was only thereafter that the petitioner was registered with the HKRN vide registration ID No.090922986564368. Despite his registration, petitioner was not reinstated, whereupon the petitioner filed COCP No.1721-2023 titled as 'Sandeep Kumar Vs. Dr. G.Anupama, IAS and another'. A compliance affidavit dated 18.04.2024 was filed in the said contempt petition and an order dated 07.02.2024 was also placed on record along with the same, whereby claim of the petitioner for appointment had been declined. The operative part of the said order reads as under:-

“Whereas in compliance of the order dated 26.05.2022 passed by the Hon'ble High Court, the Civil Surgeon office examined the case of the petitioner and found out that no post of Pharmacist is vacant in Fatehabad district under HKRNL. It is also pertinent to mention here that the experience certificate of the petitioner has been provided to the petitioner no 2 namely Sandeep Kumar.

Furthermore, it is also important to mention that if any vacancy arises out in future for the post of pharmacist then the candidature of the petitioner no 2 namely Sandeep Kumar will be duly considered by this department.

In view of the facts mentioned above, I Dr. Sangeeta Mehta, Deputy Civil Surgeon, Fatehabad have examined and rejected the claim of the petitioner and accordingly passed the speaking order. Thus, order dated 26.05.2022 of Hon'ble High Court, CWP No.27977 of 2018 stands comply within letter and spirit.

Ordered accordingly.”

4. In view of the aforesaid compliance, COCP-1721-2023 was dismissed recording that the order of the High Court dated 26.05.2022 in the writ petition stands complied with. The petitioner thereafter, submitted another representation dated 20.05.2025 to the respondents and has also

challenged the order dated 07.02.2024 by way of the instant writ petition.

5. Learned counsel for the petitioner has vehemently argued that CWP-27977-2018 was disposed of vide order dated 26.05.2022, and a direction had been issued to all the respondents to accommodate the petitioner herein by giving the benefit of length of his contractual service and to entertain his application for being taken back in service, in case he applies, however, the impugned order has been passed only in context of the vacancy position in Fatehabad and has not taken into consideration the vacant post of Pharmacists available elsewhere in the State of Haryana. He, thus, contends that the respondents have wrongly interpreted the order dated 26.05.2022, passed by this Court and have denied the benefit of the said order.

6. It is further argued that the writ petition had been disposed of qua him and a direction was issued to the respondent department as a whole and thus, they were bound to consider the claim of the petitioner.

7. I have heard learned counsel appearing on behalf of the petitioner and have gone through the relevant documents on record.

8. On a pointed query, learned counsel for the petitioner specifically submits that the prayer made in CWP-27977-2018 was only to the extent of seeking setting aside of the order, whereby services of the petitioner had been dispensed with. He concedes that no prayer for consideration of the claim of the petitioner for appointment on contract basis against the vacancies available in the entire State had been made in the said writ petition. The aforesaid answer is of vital significance since the argument now being sought to be advanced is to the effect that the claim of

the petitioner ought to have been considered against the vacancies in the entire State of Haryana since direction in the order dated 26.05.2022 is to the said effect. Counsel has been confronted with the fact that once a relief could have been asked for on the date of filing of the initial writ petition i.e. CWP-27977-2018 and the same having not been made whether the said prayer can now be raised before this Court in the second round of writ petition and as to whether or not such a prayer would be barred by virtue of Order 2 Rule 2 CPC. He is not in a position to give any satisfactory reply and has reiterated his argument noticed above as a response.

9. Every order has to be read in the context of the issue brought before the Court and its meaning has to be construed in light thereof. Since the petitioner had nowhere sought consideration against vacancy anywhere in the State of Haryana, at the time of CWP-27977-2018, in the absence of any express intent, it cannot be presumed that the order entailed such a relief. No such claim is even stated to have been raised at the time of filing of the contempt petition or its dismissal after noting the order dated 07.02.2024. The argument at this belated stage is clearly an after-thought.

10. Counsel has also been confronted with a question that in case the interpretation, as offered by the petitioner is to be accepted as inherent in the order dated 26.05.2022, in such an eventuality, the relief now being sought for would be assumed as having been already granted for the sake of arguments, and once the contempt petition had been filed, the petitioner had all liberties to raise the said issue before the Contempt Court and to put forth his point. Having not done so and having not even raised it as an argument during the contempt petition, the petitioner cannot be permitted to raise such issue now. Further, the Contempt Court recorded a specific

finding that the order dated 26.05.2022 has already been complied with in letter and spirit. No liberty to challenge the order dated 07.02.2024 has been granted by the Contempt Bench. The understanding of the order amongst the parties, thus, was clearly in the same import. No appeal has been filed by the petitioner against the finding recorded by the Contempt Bench as well.

11. Considering the claim of the petitioner from either of the perspectives, the instant writ petition deserves to be dismissed since it is filed as an after-thought and is a mischievous attempt to take advantage of changes in roster.

12. Dismissed accordingly.

07.07.2025
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(VINOD S. BHARDWAJ)
JUDGE

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