



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

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**CWP-17768-2021 (O&M)
Date of decision: 15.05.2026**

Dalbir Singh

....Petitioner

Versus

Shromani Gurudwara Parbandhak Committee and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gaurav Datta, Advocate
for the petitioner.

Mr. Harpal Saini, Advocate
for Mr. A.P.S. Sandhu, Advocate
for respondents No.2 to 5.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in the present writ petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 04.05.2021 (Annexure P-5) passed by respondent No.5, whereby the petitioner was retired from service on attaining the age of 58 years. A further prayer has been made for issuance of a writ in the nature of *mandamus* directing the respondents to reinstate the petitioner in service with continuity of service, full back wages and all consequential benefits till the age of 60 years in terms of the Service Rules applicable w.e.f. 01.04.1993.

2. Learned counsel for the petitioner submits that the petitioner was appointed as Peon/Mali with respondents and the Service



Rules framed by respondent No.4 were applicable to him. As per Rule 11.3 of the Service Rules applicable w.e.f. 01.04.1993, every employee of the Trust was entitled to continue in service till the age of 60 years and could even be re-engaged till the age of 62 years. Learned counsel for the petitioner further submits that the impugned order dated 04.05.2021 retiring the petitioner at the age of 58 years is contrary to the aforesaid Service Rules and, therefore, liable to be set-aside. He further contends that the present writ petition is maintainable as the respondents are performing a public function and reliance in this regard has been placed upon the judgments rendered by the Hon'ble Supreme Court in ***Kaushal Kishor vs. State of Uttar Pradesh and others, (2023) 4 SCC 1*** and CWP No.11299 of 1996, titled as ***Ravneet Kaur vs. The Christian Medical College Ludhiana and another***, decided on 06.05.1997.

3. *Per contra*, learned counsel appearing on behalf of respondents No.2 to 5 submits that the present writ petition is not maintainable against the answering respondents, as the respondents are the private, unaided and self-financed institution and the dispute raised by the petitioner pertains to service conditions arising out of a contract of employment and therefore, the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India cannot be invoked. He further submits that the issue is squarely covered by the judgment rendered by this Court in CWP-4913-2024, titled as ***Kirpal Singh vs. Shiromani Gurudwara Parbhandhak Committee and others***, decided on 17.12.2025.



4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. The issue involved in the present writ petition is no longer *res integra*. This Court in ***Kirpal Singh's case (supra)***, while dealing with an identical issue regarding maintainability of a writ petition against a private unaided educational institution being run under the management of SGPC, held as under:-

6. *Having heard learned counsel for the parties and after perusing the record of the case, this Court is of the view that before embarking upon a decision on the merits of the case, the issue of maintainability of the present writ petition needs consideration. The petitioner was an employee of a self-financed, private engineering college managed by a Trust. Although the Trust may have links to a statutory body (SGPC), the college itself is an unaided institution. The grievance of the petitioner pertains to the non-confirmation of service and non-payment of arrears of salary based on the terms of his appointment letter. As such, it becomes pertinent to assess if the service dispute of an employee of such an institution is amenable to writ jurisdiction under Article 226.*

7. *A two-Judge Bench of the Hon'ble Supreme Court in **St. Mary's Education Society (supra)**, opined that while a writ petition under Article 226 of the Constitution is maintainable against an individual or a body performing public functions, it is pertinent that the specific act challenged by means of the writ petition has a direct nexus with the discharge of the said public duty. It was further observed that unless the employment is governed by statutory rules, the relationship between a private unaided*



school/college and its employees cannot be deemed to have a public nature. Speaking through Justice J.B. Pardiwala, the following was opined:

“68. We may sum up our final conclusions as under:-

*(a) **An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions.** The public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation to the public involving the public law element. Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.*

*(b) **Even if it be assumed that an educational institution is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty.** It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. **Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of "State" within the expansive definition under Article 12 or it was found that the action complained of has public law element.***

*(c) **It must be consequently held that while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a Constitutional Court, its employees would not have the right to invoke the powers of the***



High Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the statutory provisions. An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.

(d) Even if it be perceived that imparting education by private unaided the school is a public duty within the expanded expression of the term, an employee of a nonteaching staff engaged by the school for the purpose of its administration or internal management is only an agency created by it. It is immaterial whether "A" or "B" is employed by school to discharge that duty. In any case, the terms of employment of contract between a school and nonteaching staff cannot and should not be construed to be an inseparable part of the obligation to impart education. This is particularly in respect to the disciplinary proceedings that may be initiated against a particular employee. It is only where the removal of an employee of nonteaching staff is regulated by some statutory provisions, its violation by the employer in contravention of law may be interfered by the court. But such interference will be on the ground of breach of law and not on the basis of interference in discharge of public duty.

(e) From the pleadings in the original writ petition, it is apparent that no element of any public law is agitated or otherwise made out.



In other words, the action challenged has no public element and writ of mandamus cannot be issued as the action was essentially of a private character.”

(Emphasis supplied)

8. Subsequently, a two-Judge bench of the Hon’ble Supreme Court in **Army Welfare Education Society (supra)** further illuminated that the relationship between a private educational institution and its employees is contractual in nature and lacks a public law element. As such, issues pertaining to service would not be amenable to writ jurisdiction under Article 226 of the Constitution of India. Speaking through Justice J.B. Pardiwala, the following was held:

“42. In view of the aforesaid, nothing more is required to be discussed in the present appeals. We are of the view that the High Court committed an egregious error in entertaining the writ petition filed by the respondents herein holding that the appellant society is a “State” within Article 12 of the Constitution. **Undoubtedly, the school run by the Appellant Society imparts education. Imparting education involves public duty and therefore public law element could also be said to be involved. However, the relationship between the respondents herein and the appellant society is that of an employee and a private employer arising out of a private contract. If there is a breach of a covenant of a private contract, the same does not touch any public law element. The school cannot be said to be discharging any public duty in connection with the employment of the respondents.**”

(emphasis added)

9. In the present case, the petitioner seeks the enforcement of terms contained in his appointment letter dated 15.06.2016. Indubitably, Respondent No. 1 (SGPC)



is a creation of a statute; however, Respondent No. 3 is a self-financed institution managed by a Trust. In imparting technical education, the college might be performing a public function, but in order to invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India, the specific action challenged must also be shown to have a direct nexus with the discharge of public duty. Admittedly, Respondent No. 3 has formulated the Baba Banda Singh Bahadur Engineering College service and conduct rules. Nothing has been brought on record to demonstrate that the aforesaid Rules are statutory in character or carry the force of law. Therefore, this Court is of the view that, since the petitioner's employment is governed by the contract of service (Appointment Letter) and by non-statutory service rules, the relationship between the petitioner and Respondent No.3 is essentially one of private contract.

10. In view of the foregoing discussion, the present petition is dismissed as it is not maintainable before this Court under Article 226 of the Constitution of India. The petitioner is at liberty to avail any alternative remedy available to him in accordance with law.

6. In the present case also, the grievance raised by the petitioner pertains to his retirement age and continuance in service under the Service Rules framed by the respondents. The dispute essentially arises out of the service conditions governing the employment of the petitioner with a private institution. Merely because the institution is being managed under the management of SGPC would not *ipso facto* render every service dispute amenable to writ jurisdiction under Article 226 of the Constitution of India, particularly when the



relationship between the parties remains contractual in nature and no statutory service rules governing the employment have been shown to exist.

7. The reliance placed by learned counsel for the petitioner upon *Kaushal Kishor’s case (supra)* and *Ravneet Kaur’s case (supra)* does not advance the case of the petitioner in the peculiar facts and circumstances of the present case as the controversy involved herein pertains to a service dispute between an employee and a private institution and does not involve enforcement of any public duty or statutory obligation having a public law element.

8. Consequently, in view of the law laid down by this Court in *Kirpal Singh’s case (supra)* as well as the judgments of the Hon’ble Supreme Court referred to therein, this Court is of the considered opinion that the present writ petition is not maintainable under Article 226 of the Constitution of India.

9. Accordingly, finding no merit in the present writ petition, the same is hereby dismissed.

(HARPREET SINGH BRAR)
JUDGE

15.05.2026
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No