

CWP No.20272 of 2023 and other connected cases

2025:PHHC:015837



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

- (1)** **CWP No.20272 of 2023**
- Nannu Ram ...Petitioner
- Versus
- National Institute of Pharmaceutical Education &
Research, SAS Nagar, Mohali and others ...Respondents
- (2)** **CWP No.20284 of 2023**
- Surjit Singh ...Petitioner
- Versus
- National Institute of Pharmaceutical Education &
Research, SAS Nagar, Mohali and others ...Respondents
- (3)** **CWP No.20304 of 2023**
- Mela Ram ...Petitioner
- Versus
- National Institute of Pharmaceutical Education &
Research, SAS Nagar, Mohali and others ...Respondents
- (4)** **CWP No.20311 of 2023**
- Ram Narayan ...Petitioner
- Versus
- National Institute of Pharmaceutical Education &
Research, SAS Nagar, Mohali and others ...Respondents
- (5)** **CWP No.20324 of 2023 (O&M)**
- Gurmel Singh ...Petitioner
- Versus
- National Institute of Pharmaceutical Education &
Research, SAS Nagar, Mohali and others ...Respondents
- (6)** **CWP No.6904 of 2024**
- Ram Murti ...Petitioner
- Versus
- National Institute of Pharmaceutical Education &
Research, SAS Nagar, Mohali and others ...Respondents

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(7) **CWP No.6919 of 2024**
Pardeep Kumar ...Petitioner
Versus
National Institute of Pharmaceutical Education &
Research, SAS Nagar, Mohali and others ...Respondents

(8) **CWP No.6933 of 2024**
Ranbir ...Petitioner
Versus
National Institute of Pharmaceutical Education &
Research, SAS Nagar, Mohali and others ...Respondents

(9) **CWP No.6941 of 2024**
Dalbar Singh ...Petitioner
Versus
National Institute of Pharmaceutical Education &
Research, SAS Nagar, Mohali and others ...Respondents

Date of decision: February 03, 2025

Coram: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurpreet Singh, Advocate,
Mr. Aakash Paul, Advocate,
Mr. Mansangat Singh Kohli, Advocate,
Ms. Riya Khanna, Advocate,
Mr. Karan Kathuria, Advocate, for the petitioner(s).

Mr. Sandeep S. Majithia, Advocate, and
Mr. Deepak Parmar, Advocate,
for respondent no.1.

Harsimran Singh Sethi, J. (Oral)

In the present petitions, the grievance being raised by the petitioners is that their claim raised under the Industrial Disputes Act, 1947 (for short "1947 Act") has been rejected by the Industrial Tribunal

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on the ground that as per the Industrial Disputes (Amendment) Act No.24, 2010 (for short “Act No.24 of 2010”), sub-section (3) has been added in Section 2A of the Principal Act, according to which application under Clause (2) of Section 2A shall be made to the authorities concerned to challenge the discharge, dismissal, retrenchment or otherwise termination of service within a period of three years, which is asserted to be arbitrary and illegal and without noticing the actual facts.

2. Learned counsel for the petitioners argues that the petitioners had approached this Court by filing CWP Nos.5949, 7930 and 6645 of 1999 and praying for regularization of their services or in the alternative, praying to scrap contractual relationship so as to create the relation of master-servant between the employees and contractor, which were kept pending keeping in view the fact that the issue was pending consideration before Hon’ble the Supreme Court in Civil Appeal No.3200 of 2002 titled as “***Ram Singh & ors. Vs. U.T. Chandigarh, 2004(1) SCC 126***”, which was decided on 07.11.2023. It is submitted that the aforesaid writ petitions were dismissed on 30.10.2012 (Annexure P-2), keeping in view the judgment of Hon’ble Supreme Court of India in Civil Appeal No.3200 of 2002. But subsequently, an application was moved by the petitioners asking that the petitioners be given liberty to avail appropriate remedy before the Labour Court, which applications were allowed on 01.02.2013 by orders of this High Court, after which the petitioners filed claim petitions under Section 2A of the 1947 Act.

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3. Learned counsel for the petitioners submits that the claim petitions which were filed in the year 2013 have been dismissed vide order dated 01.11.2022 (Annexure P-1) by placing reliance upon the Act No.24 of 2010 in view of Section 2A(3) of the 1947 Act. It is submitted that on the date when the said Section 2A(3) was taken into account for deciding upon the said claim petition while passing the impugned award, the same had already been repealed by the Repealing and Amending Act No.23 of 2016 (for short “Act No.23 of 2016”) on 09.05.2016. It is further submitted that in November, 2022, the repealed Act No.24 of 2010 could not have been taken into account merely on the ground that the dispute was raised when Section 2A(3) was in operation.

4. Learned counsel appearing on behalf of respondent no.2 submits that once on the date when the said claim petitions were filed by the petitioners under Section 2A of the Act, Section 2A(3) was in operation, therefore, the same has to be taken into account even if the said provision has been repealed subsequently.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. In the impugned order, the Labour Court has held that keeping in view Section 2A(3) of the 1947 Act, the reference was not maintainable hence, the same cannot be adjudicated on merits. The argument which was raised on behalf of the argument that on the date when the consideration is being given qua their entitlement of the relief claimed, Section 2A(3) of 1947 Act had also been deleted by way of the Act

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No.23 of 2016 and was not in force so as to take the same into consideration. The Labour Court was required adjudicate the same before recording the finding qua maintainability of the reference raised by the petitioners. A bare perusal of the impugned order would go on to show that the said question has not been decided whether despite passing of the Act No.23 of 2016, by which Section 2A(3) of the 1947 Act has been deleted and the same was not in existence on the date the Labour Court was considering the issue, the petitions were maintainable or not? The relevant factor, i.e. Act No.23 of 2016, has not been at all taken into account by the Labour Court so as to hold the non-maintainability of the references before the Labour Court. The relevant aspect has been ignored by the Labour Court while passing the impugned order.

7. Keeping in view the above, the orders dated 01.11.2022 (Annexure P-1) is set aside and the case is remanded back to the Tribunal-Labour Court for adjudicating upon the reference petitions taking into consideration the fact that Section 2A(3) had already been deleted during the pendency of the reference petitions filed by the petitioners under Section 2A of the 1947 Act. It may be noted that due opportunity be given to the respondents to present their case qua the said aspect and the question of law.

8. The parties are directed to appear before the Tribunal-cum-Labour Court on 10.03.2024.

9. It may be noticed that no observation is being made by this Court on the merits of the case as maintainability of the reference is yet to be

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decided again keeping in view the order passed hereinabove and the petition is to be decided on merit, then only the claim of the petitioner qua the reinstatement is to be adjudicated upon.

**February 03, 2025
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**(Harsimran Singh Sethi)
Judge**

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