

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

CWP No. 12077 of 2017
Date of decision: 17.07.2017

Vikas

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. AKS Goyat, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

In the present writ petition, the reply dated 19.01.2017 (Annexure P-5) to the legal notice dated 04.01.2017 (Annexure P-4) has been challenged and direction has been sought for re-engaging alongwith all consequential benefits under the outsourcing policy.

It is the case of the petitioner that he was appointed as a driver on 09.11.2015 by respondent no. 3, the Municipal Corporation, Rohtak and he served under the outsourcing policy till July, 2017. Reference is also made to the attendance register (Annexure P-1) and the pass book to show the salary proof as such. It is his case that service of the petitioner has been illegally terminated even without serving one month's notice or paying one month's salary and he has not been allowed to join.

A perusal of the impugned reply dated 19.01.2017 (Annexure P-5) would go on to show that the Corporation specifically replied that the petitioner had never been engaged against any post in Municipal Corporation, Rohtak by any authority. He was engaged through agency

namely M/s. New Hindustan Security Services and Placement Bureau, Sampla, District Rohtak, who has been arrayed as respondent no. 4. No salary had been disbursed by the Corporation to that worker and he remained an employee of the agency and he was not the worker of the Corporation and, therefore, no action was required to be taken by the said Corporation. Even a perusal of the pass book (Annexure P-2), which has now been appended, would go on to show that the salary of ₹8,539/- has been credited in the account of the petitioner which was also by the said private respondent.

In such circumstances, this court is of the opinion that disputed questions are arising for consideration as to who is the principal employer. The writ Court is not an appropriate Forum where the matter can be raised. The petitioner accordingly is relegated to raise his remedy, if any, before the Labour Court by raising an industrial dispute in accordance with law.

Accordingly, the present writ petition is dismissed with the aforesaid liberty. It is made clear that nothing said herein as such will prejudice the said Court in any manner while deciding on merits.

17.07.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No