

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

CWP No.7369 of 2018

Date of Decision:-23.03.2018

Surjeet Singh & Ors.

.....Petitioners.

Versus

Punjab State Power Corporation Ltd. & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. K.S. Brar, Advocate for Petitioners.

JASWANT SINGH, J.

Contractual employees namely, Surjeet Singh, Kulwinder Singh, Gurpreet Singh, Manwinder Singh and Surinder Singh are aggrieved against the order dated 25.01.2018 (P-2) passed by the respondent no.3 i.e. M/s Gill Engineering Company Pvt. Ltd., as well as order dated 5.12.2017 (P-3) passed by respondent no.2 i.e. Superintending Engineer, Thermal Operations, whereby the legal notice dated 16.06.2017 of the petitioners has been replied by the said respondents and their claim has been allegedly rejected.

Learned Counsel for the petitioners has argued that the petitioners were employed by respondent no.2 through its contractor i.e. respondent no.3 in the Guru Nanak Dev Thermal Plant, Bathinda on 01.02.2010 as Skilled and Unskilled workers and since then they have been discharging their duties without any complaint. However, vide tender

notice dated 31.03.2017 which appeared in various newspapers, respondent no.2 invited fresh tenders for engagement of employees through outsource which was again bagged by respondent no.3. However, this time respondent no.3 has refused to avail the service of the petitioners and replaced them with respondent no.4 to 12, who have no experience whatsoever. In view of the said illegal act of respondent no.3, legal notice dated 16.08.2017 was served upon respondents no 2 and 3, who vide detailed orders dated 05.12.2017 and 25.01.2018 respectively have declined to take the petitioners back into service.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and deserves to be dismissed.

Admittedly, there is no employer-employee relationship between Superintending Engineer Thermal Operations Guru Nanak Dev Thermal Plant, Bathinda (respondent no 2) and the petitioners, because admittedly the work for engaging employees was outsourced by respondent no.2 to a private contractor i.e. respondent no.3, namely, M/s Gill Engineering Co. Pvt. Ltd., therefore no cause of action arises for the petitioners to invoke the extraordinary writ jurisdiction against respondent no.2. As far as the cause of action against respondent no.3 is concerned, this Court is of the opinion that the nature of work that the petitioners were assigned by respondent no.3, is contractual and therefore, bound by the dotted lines of a contract. That being so, it is the complete prerogative of the respondent no.3 whether to avail services of the petitioners or not. In any case, that being a private dispute, this Court cannot go into the said question at all, being beyond jurisdiction.

Not only this, through the present writ petition, the petitioners have sought quashing of alleged orders given by the respondent nos.2 & 3, which in the opinion of this Court are not orders but only replies to legal notice sent by petitioners. It is settled position of law that while exercising jurisdiction under Article 226 of the Constitution, a writ in the nature of Certiorari is not maintainable for quashing the replies which have been invited by the petitioners themselves by serving a legal notice dated 16.06.2017.

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

March 23, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>