IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-509-2021 (O&M)
Date of Decision:-6.7.2021

Mohit

… Appellant

Versus

State of Haryana and others

... Respondents

*****

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH

*****

Present:- Mr. Deepak Vashishth, Advocate
for the appellant.

*****

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of COVID-19 Pandemic.

The appellant has filed this Letters Patent Appeal against impugned order dated 8th March, 2021 passed by the learned Single Judge whereby the writ petition filed by him seeking directions to allow the appellant to rejoin the post of Data Entry Operator on which he remained working on contractual basis, was dismissed.

As per the appellant, he was appointed as Data Entry Operator on contractual basis in the office of Deputy Excise and Taxation Commissioner, Karnal, Haryana and was discharging his duties since 27th September, 2017. Before his appointment, he qualified the typing test. His tenure of appointment was extended from time to time. The grievance of the appellant is that finally he was removed from the abovesaid post and in his place another contractual employee has been appointed. The appellant has challenged his removal.

The claim of the appellant was contested by the State. In its written reply, the State took plea that Data Entry Operators were engaged by the Excise and Taxation Department, Haryana under outsourcing policy through service provider. In this regard agreement was executed with the service provider for the period from 18th October, 2018 to 19th September, 2019. As per the said agreement, the tenure of the employment of the appellant was upto 19th September, 2019. Thereafter, no further sanction to renew his employment was granted by Excise and Taxation Commissioner, Haryana.

After hearing the counsel for the parties, the learned Single Judge dismissed the writ petition while observing that the appellant and other Data Entry Operators were not employees of Excise and Taxation Department, Haryana and there was no master-servant relationship between the respondents and the petitioner (appellant herein).

The appellant being not satisfied by the impugned order has filed the present appeal.

We have heard the counsel for the appellant.

The counsel for the appellant submitted that the appellant was working as Data Entry Operator on contractual basis in Excise and Taxation Department, Haryana. He was selected for the said job after his approval by the competent authority on the basis of his performance in the typing test. After his appointment, the appellant was working directly under the Deputy Excise and Taxation Commissioner. Finally the appellant was removed from the said job. The learned counsel further contended that the appellant is being replaced by other contractual employee. Such type of action on behalf of the Government is not acceptable under law. In support of his contentions, the counsel for the appellant referred to ***Hargurpratap Singh*** *vs.* ***State of Punjab & Others, 2007(13) SCC 292***, wherein it was held that a person employed on ad hoc basis cannot be replaced by another ad hoc arrangement of the same nature.

The counsel for the appellant further contended that one another similarly situated contractual employee namely Amit Kumar Singla has been granted interim relief by the learned Single Judge of this Court vide order dated 27th August, 2020 and was allowed to rejoin the services. The counsel for the appellant has also sought parity on the basis of abovesaid interim order dated 27th August, 2020.

We have considered the contentions raised by the counsel for the appellant.

In this case the appellant failed to produce his appointment letter, if any, issued by Haryana Government or any of its department. The appellant was also unable to establish that he was under the direct employment of respondents. During arguments, the counsel for the appellant admitted that the appellant and some other persons were engaged by the respondents as Data Entry Operators through service provider namely Laxmi Placement Services. So, undisputedly, the appellant was engaged by Deputy Excise and Taxation Commissioner through service provider. However, the said private outsourcing agency was not impleaded as a party to the writ petition by the appellant.

In wake of the above, we are of the view that the learned Single Judge rightly observed that there was no relationship of master-servant between the respondents and the petitioner (appellant herein). The similar view was taken by learned Single Judge of this Court in CWP-19762-2018 titled as Vikash vs. The State of Haryana and Others, decided on 11.12.2019, wherein it was held that the petitioner therein has no direct relationship with the Municipal Corporation, Gurugram where he was working as an outsourced employee.

The judgment passed by the Hon'ble Supreme Court in **Hargurpratap Singh's** case (supra) is relating to contractual employees directly engaged by the Government College Authorities and is not related to outsourced employees. So the same is of no assistance to the appellant. Moreover, the appellant cannot take any benefit of the interim order dated 27.8.2020 passed by learned Single Judge in CWP-7091-2020 titled as Amit

Kumar Singla vs. State of Haryana and Others, the reason being the said interim order was passed on the basis of dictum of the Hon'ble Supreme Court in **Hargurpratap Singh's** case (supra). The facts of the cited case are distinguishable from that of the case in hand, as has been already discussed above.

Consequently, the present appeal is hereby dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

06.07.2021
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No