

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

105

**CWP No.22490 of 2020 (O&M)
Decided on : 08.03.2021**

Mohit

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Deepak Vashisht, Advocate for the petitioner.

Mr. RKS Brar, Addl. AG, Haryana.

(The proceedings are being conducted through video conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

CM-2842-CWP-2021

Application has been filed for placing on record amended memo of parties and Annexure P-7. Keeping in view the earlier orders, the application is allowed. The amended memo of parties and Annexure P-7 are taken on record. Office to append the same at the appropriate place.

CM stands disposed of.

Main case

The petitioner in the present writ petition filed under Article 226/227 of the Constitution of India seeks directions to allow him to rejoin on the post of Data Entry Operator, as he had worked on contractual basis on the said post from 27.12.2017 till 19.09.2019.

Counsel has vehemently submitted that similar matters are pending consideration before the Coordinate Bench for 22.07.2021 and the lead case is **CWP No.3117 of 2020 'Jaideep and others Vs. State of Haryana and others'** and interim orders have been passed that in

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case there are less numbers of contractual employees available, the respondent shall allow the petitioner to rejoin the services and continue till the next date of hearing.

The State has filed its reply taking the plea that initially sanction had been granted to engage 10 Data Entry Operators under Outsourcing Policy through a Service Provider. A tender was floated and the same was allotted to Luxmi Placement Service being lowest bidder, who provided the services of the said operators including the petitioner, in the year 2018. An agreement was also made in this regard from 18.10.2018 to 19.09.2019. As per the terms of the agreement the service of the petitioner was upto 19.09.2019. A request had been made to Excise and Taxation Commissioner, Haryana, to renew the sanction for a period of one year, but no response has been received and, therefore, the petitioner alongwith others were not allowed to continue.

It is further submitted that the petitioner alongwith other Data Entry Operators were not employees of the respondent No.3, but they were employed by the service provider namely Luxmi Placement Service and, thus, there is no master servant relationship between the respondent and the petitioner. Reliance is placed upon the judgment passed in CWP No.19762 of 2018 'Vikash Vs. State of Haryana and others' decided on 11.12.2019 (Annexure R-1), wherein in similar circumstances regarding outsourcing agencies, the writ petition was dismissed being not maintainable, as no writ petition would lie against an outsourcing agency being a private entity which is not an authority in

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terms of the Article 12 of the Constitution of India.

It is interesting to note that though the petitioner was engaged through service provider, but the said outsourcing agency has not been impleaded as a respondent by the petitioner.

Counsel for the petitioner has vehemently submitted that one candidate has filed writ petition and was allowed to continue in service by the department. It is apparent that the said rejoining was in pursuance of the directions issued in CWP No.7091 of 2020, which has also been relied upon by the petitioner to submit that the bunch of cases is pending for 22.07.2021.

Counsel for the State submits that the petitioner's services were dispensed with way-back in 2019 and the present writ petition has only been filed on 16.12.2020, after a period of one year.

Keeping in view the fact that a Coordinate Bench has already taken a final decision after distinguishing the judgment of the Apex Court passed in '**Hargurpartap Singh Vs. State of Punjab**', 2007 (13) SCC 292, the benefit of interim orders cannot be relied upon by the counsel for the petitioner, as a precedence over the final judgment.

Accordingly, the present writ petition is dismissed, keeping in view the reasoning recorded in **Vikash (supra)**.

(G.S. SANDHAWALIA)
JUDGE

MARCH 08, 2021
Naveen

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No