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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1255-2022

Date of Decision: 04.02.2022

KAMAL SINGH KUNDU

..... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sanchit Punia, Advocate
for the petitioner.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

This writ petition has been filed by the petitioner who had been appointed on the post of Lab Attendant admittedly through an outsourcing agency on 31.08.2018.

Learned counsel for the petitioner submits that petitioner's services were dispensed with on 08.01.2022 in an unjustified manner even though enough workload is present and available.

I have heard learned counsel for the petitioner at length.

Learned counsel for the petitioner is unable to deny that petitioner was appointed through a service provider as per Outsourcing Policy of the State (Part I). Privity of contract clearly does not exist between the petitioner and respondents.

The issue is no longer *res integra* and is squarely covered by a decision of the Division Bench in ***Nishan Singh and others Vs. State of Punjab and others, 2014(1) SCT 33***, wherein it has been clearly held that “*it was the service provider who entered into an agreement with the State agency to provide work force on certain terms and conditions. The service provider selected the candidates and supplied the same to the Government Department. A service provider is not an agency of the State to make recruitment against the civil posts. The acceptance of claim of the appellants shall amount to back door entry to public employment in total disregard to the mandate of Articles 14 and 16 of the Constitution*”.

In similar circumstances, this Court in CWP No.11911 of 2020 (Joginder Singh v. State of Haryana and others) rejected a similar claim. Reference can gainfully be made to decision dated 28.11.2018 in CWP No.29655 of 2018 titled Anmol Garg and another v. State of Punjab and others, which was upheld in LPA-1910-2018 with the following observations:-

“Learned Single Judge finding that the appellant was an employee of outsourcing agency which was having a license under the contract to supply manpower held there was no privity of contract between the appellant and the employer and she was not even a contractual employee. The principle being canvassed before us applies only in case there is a privity of contract between the employee and the employer. In the case in hand, the appellant was an employee of the service provider. The benefit of the said principle is not liable to be extended to her and, thus, we do not find any illegality committed by learned Single Judge in dismissing the writ petition.”

Similar was the fate of CWP No.19762 of 2018 titled Vikash v. The State of Haryana.

Keeping in view the definitive decision of the Division Bench of this Court, I do not find any ground to interfere in this writ petition.

Accordingly this writ petition is dismissed. Needless to say, petitioner is at liberty to avail the remedy/remedies as may be available to him in accordance with law for redressal of his grievance.

February 04, 2022
Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No