

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

CWP No. 2157 of 2019 (O&M)

Date of Decision:19.04.2022

Sunny and others

.....Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: None for the petitioner.

Dr. Kiran Pal Singh, AAG., Haryana.

LISA GILL, J(Oral).

Prayer in this writ petition is for a direction to the respondent-authorities not to replace the petitioners with other contractual employees and to permit them to continue till appointments on regular basis are made. There is a further prayer for release of salary of the petitioners.

It is noticed that none had appeared on behalf of the petitioners on the last date of hearing and learned counsel for the petitioners was directed to be notified of the date fixed.

As per office report, learned counsel for the petitioners has been informed through e-mail, however, none has again appeared on behalf of the petitioners.

I do not find any justification in keeping the matter pending any longer.

As per the averments in the writ petition, petitioners were appointed on contract basis on the post of Lab Attendant in August 2018 and continued to work to the satisfaction of the authorities. It is averred that salary of the petitioners had not been released regularly and when the same

is sought from the respondents, they are threatened with the sword of termination. It is further averred that petitioners are entitled to the wages at par with the minimum of the pay scales of regular government employees holding the same post.

Learned counsel for the respondent-State while referring to the short reply dated 09.10.2019, filed on behalf of respondents no.1 to 3, points out that this writ petition is not maintainable as petitioners were engaged through an outsourcing agency namely 'Rana Security Services (Regd.) Head Office, 213, Subhash Nagar, Rohtak' on D.C. rate under Outsourcing Policy Part-I of the Haryana Government. This fact has however not been mentioned in the writ petition. Moreover, the petitioners under the said policy are not entitled to any equivalence of pay with the regular employees of the State. It is submitted that bills as raised by the Outsourcing Agency were duly released and the salary has to be paid to the petitioners by the said agency.

It is to be noticed that there is no replication to the short reply dated 09.10.2019 filed on behalf of respondents no.1 to 3. Privity of contract clearly does not exist between the petitioners and respondents, as petitioners were appointed on contractual basis through an outsourcing agency.

The issue is no longer *res integra* and is squarely covered by a decision of the Division Bench of this Court 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”.

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.”

In similar circumstances, this Court in CWP No.11911 of 2020 (**Joginder Singh v. State of Haryana and others**) rejected a similar claim. Similar was the fate of CWP No.19762 of 2018 titled **Vikash v. The State of Haryana**.

Keeping in view the facts and circumstances as above, I do not find any ground to interfere in this writ petition.

Accordingly this writ petition is dismissed with no order as to cost. Needless to say, petitioners are at liberty to avail the remedy/remedies

as may be available to them in accordance with law qua the service provider.

19.04.2022

s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.

[LISA GILL]
Judge