

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

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**CWP No.3345 of 2019.
Date of decision: 16.11.2022.**

Brij Mohan and Others	...Petitioners
	Vs.
State Of Punjab and Others	...Respondents

CWP No.3826 of 2020 (O&M)

Vinod Kumar	...Petitioner
	Vs.

State Of Punjab And Others	...Respondents
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CORAM: HON’BLE MS. JUSTICE JAIRSHREE THAKUR

Present: Mr. Sunny Singla, Advocate
for the petitioner in CWP No.3345 of 2019.

Mr. Aruz Khan, Advocate
For the petitioner in CWP No.3826 of 2020

Mr. Sehajbir Singh, Aulakh, AAG, Punjab.

Mr. D.K. Singal, Advocate
for respondentNo.3-Municipal Council, Nangal,

JAISHREE THAKUR, J.(ORAL)

1. These two writ petitions are being disposed of by common order. For the sake of brevity, facts have been taken from CWP No. 3345 of 2019.
2. The petitioners herein are engaged on purely contractual basis on different posts i.e. Mali, Keyman and Fitter under the Municipal Council, Nangal and have been discharging their duties for a period ranging 6-16 years. The petitioners approached the High Court to seek a writ in

mandamus directing the respondents to permit the petitioners to continue to discharge their duties and to release their salaries for the last 9-10 months.

3. Learned counsel for the petitioners herein would contend that another set of employees had approached the High Court by way of filing *Civil Writ Petition No. 13348 of 2018 titled as Rajiv Kumar and Another Vs. State of Punjab and Others* seeking interim directions to be allowed to continue in employment and not to be replaced by another set of contractual employee. The writ petition was dismissed, which led to the petitioners to file LPA No. 4957 of 2018. It was prayed that till such time the LPA is decided, the petitioners be allowed to continue working. Vide order dated 06.02.2019 a Coordinate Bench taking note of the fact that the matter was pending before the LPA Bench allowed the petitioners to continue in employment and not to be replaced by another set of employees on contractual basis. The petitioners herein state they have been appointed through outsourcing and they cannot be replaced by another set of employees through the outsourcing policy.

4. Whereas, learned counsel appearing on behalf of the respondent-State would submit that the petitioners herein were working directly under man power contractors i.e. were outsourced. A decision was taken by the department of Local Government Punjab vide its letter dated 21.05.1999 to follow the outsourcing policy and therefore, there is no direct contract between the petitioners and the Corporation. The petitioners therefore, neither have a right to be regularized nor they can be continued in service. It is submitted that a similar issue has already been decided in CWP No.13348 of 2018, wherein it has been held that if there is no binding contract between

the petitioners and the Corporation, claim for regularization or to be allowed to continue to discharge duties cannot be allowed. It is further stated that the judgment rendered by the Division Bench in LPA No.4957 of 2018 in Rajiv Kumar Vs. State of Punjab affirms the view of CWP No.13348 of 2018, wherein it has been held that writ petitions are not maintainable, as there is nothing to establish that the writ petitioners are employed by the Municipal Council directly.

5. In the instant case too, averments of the petitioners in para No.2 is that they are working through contractors. On the asking of the Court whether the petitioners could establish that they are being paid directly by the Municipal councils, the answer is in the negative. In such a situation, when there is no direct relationship of master and servant between the employees i.e. the petitioners and the Municipal Council, this Court is bound by the ratio as laid down in Rajiv Kumar (supra) by the Division Bench.

6. Consequently, writ petition stands dismissed.

November 16, 2022
Poonam Sharma

(JAIRSHREE THAKUR)
JUDGE

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