

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

CWP-15209-2020 (O&M)
Date of decision : April 26, 2022

Nirmal Kumari

.....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. P.K. Mutneja, Senior Advocate with
Mr. Sandeep Goyat, Advocate for the petitioner.

Dr. Kiran Pal Singh, AAG, Haryana.

LISA GILL, J.

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 23.08.2019.

Learned counsel for the petitioner submits that petitioner's services were dispensed with on 27.06.2020 in an unjustified manner even though enough workload is present and available. Moreover, petitioner's work and conduct, it is stated, is to the satisfaction of her superiors and she cannot be replaced with another contractual employee. It is, thus, prayed that this petition be allowed.

Heard learned counsel for the parties.

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

Issue sought to be raised is no longer res integra. The fact that petitioner was appointed through a service provider is not in dispute. It is, thus, apparent that there is no privity of contract between the petitioner and official respondents, thus, present writ petition is not maintainable. Matter stands conclusively settled by a number of judicial pronouncements.

A Division Bench of this Court in **Nishan Singh and others versus State of Punjab and others 2014 (11) RCR (Civil) 262** has clearly observed that a service provider is not an agency of the State. The service provider enters into an agreement with the State agency to provide the work force on certain terms and conditions. The candidates are selected by the service provider and supplied to the Government department. Thus, in this scenario it cannot be held that there is any privity of contract between the contractual employees and the State/department.

Gainful reference can also be made to decision dated 28.11.2018 of a co-ordinate Bench in CWP-29655- 2018 titled '**Anmol Garg and another versus State of Punjab and others**', which has been upheld in **LPA-1910-2018**. The First Division Bench of this Court in LPA-1910-2018 upheld decision dated 28.11.2018 of the Single Bench while specifically observing as under:-

“ 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 an identical situation, another co-ordinate Bench refused to interfere in a similar matter on 02.12.2020 in CWP-17454-2020. Similar contentions on behalf of the petitioners in the said case, including the applicability of decision of **Hargurpartap Singh versus State of Punjab (2007) 13 SCC 292** have been succinctly dealt with and I am in agreement with the same. The argument that petitioner should not be replaced by another set of employees lacks merit in the given factual matrix and, is hence, rejected. Reference in this regard can also be made gainfully to **CWP-19762-2018** titled ‘**Vikash versus The State of Haryana and others**’. No ground is, thus, made out to interfere in this writ petition.

Keeping in view the facts and circumstances of the case, this writ petition is dismissed being not maintainable. Needless to say, petitioner is at liberty to avail remedy/remedies as may be available in respect of any grievance which she may have qua the service provider.

April 26, 2022

rts

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No