

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-17514-2020 (O&M)
Date of Decision: 05.04.2022

ARSHAD AND ANOTHER

..... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: None for the petitioners.

Mr. Harish Nain, AAG, Haryana.

LISA GILL, J.

Petitioners, who were appointed through an outsourcing agency i.e. respondent no.3, have filed this writ petition seeking a direction to the respondents to not replace them by another set of contractual employees in view of the judgment of Hon'ble Supreme Court in ***Hargurpratap Singh and Others Vs. State of Punjab and others, 2007(13) SCC 292***. There is a further prayer for grant of minimum of regular pay scale on which the petitioners have been discharging their duties along with all allowances as revised from time to time.

It is stated in the writ petition that the petitioners were appointed on contract basis with petitioner no.1 being appointed as a Gardener and petitioner no.2 as a Security Guard through an outsourcing agency i.e. respondent no.3 in August, 2017 and their work and conduct has been satisfactory but they were not allowed to join duty since August, 2020.

Petitioners, it is stated on enquiry came to know that the outsourcing

agency-respondent no.3 has been substituted by another outsourcing agency, who has sent up two other persons for appointment in place of present petitioners, who otherwise are not arrayed as parties in this writ petition. It is stated that work and conduct of petitioners being satisfactory, they should have been permitted to continue working and not replaced by another set of contractual employees.

It is noticed that on the last date of hearing none had appeared on behalf of the petitioners despite the matter being called twice. Matter was adjourned with a rider that no further request for adjournment shall be entertained. This petition was kept for hearing today. There is again no representation on behalf of the petitioners. Be that as it may, I find no justification for adjourning this matter any longer as the controversy sought to be raised 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”.

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 and others**.

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. 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.

05.04.2022
Sunil

(LISA GILL)
JUDGE

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