

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

CWP No. 19831 of 2022
Date of decision: 13.09.2022

Sandeep Kumar Petitioner.

Versus

State of Haryana and others Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Shalender Mohan, Advocate, for the petitioner.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner is seeking quashing of impugned order dated 09.08.2022 (Annexure P4) whereby his services from the post of ALM have been terminated.

Learned counsel for the petitioner submits that the petitioner had been working as Assistant Lineman with the respondents since 01.10.2015. He also contends that the services of the petitioner have now been terminated by respondent No.5 by order dated 09.08.2022 (Annexure P4) without any notice and affording an opportunity of hearing to the petitioner. He further submits that the petitioner's removal from service would be treated as stigmatic and bar him from future employment.

Heard.

It is settled law that no writ petition would lie against an outsourcing agency, as it is not an authority in terms of Article 12 of the Constitution of India. Reference can be made to the judgment of a Division

Bench of this Court in the case of Nishan Singh and others versus State of Punjab and others, 2014 (11) RCR (Civil) 262, wherein it has been held that the service provider who has selected the candidates for work in the government department, is not an agency of the State. The appellants therein were neither selected under any service rules applicable to regular employees of the State of Punjab nor did they apply under any advertisement for their appointment as contractual or regular employees of the state. It was further held that the acceptance of the claim of the appellants therein for continuation of services would amount to a back door entry to public employment in total disregard to the mandate of Articles 14 and 16 of the Constitution of India.

In the case of Anmol Garg and another versus State of Punjab and others, bearing CWP No. 29655 of 2018, decided on 28.11.2018, a Coordinate Bench of this Court dismissed the writ petition preferred by an employee engaged through outsourcing agency which was upheld by a Division Bench in LPA No. 1910 of 2018, decided on 10.12.2018 and the operative part thereof is reproduced hereunder:-

“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.”

Reference can also be made to the orders of the Coordinate Benches of this Court in the cases of 'Vikas versus The State of Haryana and others' bearing CWP No.19762 of 2018, decided on 11.12.2019, 'Kailash Chand and others versus Urban Local Bodies Department, Haryana and others', bearing CWP No.21345 of 2021, decided on 18.01.2022 and 'Naresh Kumar and others versus Haryana State Warehousing Corporation and others', bearing CWP No.17454 of 2020, decided on 02.12.2020, wherein similar petitions of outsourcing employees were also dismissed.

In view of the above, I do not find any merit in this petition, especially when the petitioner was employed on contractual basis.

Consequently, the petition stands dismissed. However, the order of removal dated 09.08.2022 (Annexure P4) would not be treated as stigmatic and would not bar the petitioner from future employment.

13.09.2022
Ramesh

(ANUPINDER SINGH GREWAL)
JUDGE

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