

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

CWP-25998-2022 (O&M)

Date of decision: November 16, 2022

Ruby

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ashok Tyagi, Advocate for the petitioner.

Mr. Pankaj Middha, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

This is the second foray of the petitioner, *inter alia*, seeking issuance of a writ in the nature of Certiorari for setting aside order dated 18.10.2022 (Annexure P-8) whereby legal notice dated 13.04.2022 served by petitioner was disposed of. Further, issuance of a writ in the nature of Mandamus is sought directing the respondents to register the petitioner's name on the portal of Haryana Kaushal Vikas Rozgar Nigam in compliance with instructions (Annexures P-3 & P-4).

2. In the earlier round, writ petition bearing CWP-17606-2022 was disposed of with direction to the competent authority to decide legal notice dated 13.04.2022, vide order dated 10.08.2022. *Apropos*, following impugned order dated 18.10.2022 has been passed:-

“Examination and Consideration:-

And whereas, after going through the record the case and legal notice dated 13.04.22, it is revealed that the petitioner was removed by his employer namely Osaka Security & Housekeeping Services Pvt. Ltd. i.e., outsourcing agency and he sought re-employment by way of registering his name on the

portal of Haryana Kaushal Vikas Rozgar Nigam. It is pertinent to mention here that initially the petitioner had been engaged on the post of security guard by his above-named employer/ outsourcing agency under the scheme of outsourcing policy of Govt. of Haryana. Thereafter, on dated 01.08.2021 his engagement had been Shifted/ Switched by his above-named employer against the post of Class IV under the temporary engagement scheme of Govt. of Haryana in view of outburst of Covid Pandemic. On dated 31.03.2022, sanction for all the engagements under the temporary employment scheme of Govt. of Haryana in view of outburst of Covid Pandemic, lapsed and consequently all such similarly situated temporarily engaged workman under the said scheme, were relived from their respective services.

It is noteworthy to mention here that on dated 01.06.2022 a letter bearing Memo No NHM/ Admin/ HR-A7/ 2022-23/3091-3112, issued by Mission Director, NHM, Haryana, had been received whereby it is instructed that staff should specifically be hired, if there is actual requirement of manpower for Covid-19. Presently, the number of Covid Positive patient has been substantially reduced in the district of Sonipat and, therefore, services earlier rendered by petitioner is no more required.

However, it is not out of context to mention here that any person having particular professional experience may himself got registered on the portal of Haryana Kaushal Vikas Rozgar Nigam and he may be considered against the suitable post whenever any vacancy will occur in the department.

And now, therefore, in view of the facts and circumstances of the case and for reasons recorded above, the legal notice dated 13.04.22 served by the petitioner is disposed of accordingly, as far as this office is concerned.”

3. A perusal of the above clearly reflects that claim of the petitioner for registering his name on the portal of the Haryana Kaushal Vikas Rozgar Nigam was threadbare gone into by respondent No.3-Civil Surgeon, Sonipat and based on the facts noted in the impugned order, he found that his claim was not acceptable.

4. Learned counsel appearing for the petitioner argues that wrong facts have been noted, and therefore, said order is liable to be set aside. Even if I were to accept the aforesaid argument, it is not for this Court in writ jurisdiction to hold a trial on the disputed facts since the same requires evidence to be adduced by the parties *qua* the rival factual matrix. Even

otherwise, effectively, the relief of the petitioner is directed more against his employer, who is a private contractor rather than the innocuousness which is being projected on his being denied the same on account of non-registration with Haryana Kaushal Vikas Rozgar Nigam.

Otherwise, it is a matter between his employer who is a private contractor and not between the Government functionaries and the petitioner. In fact, the same has also been noted by the Civil Surgeon in the impugned order stating that if a person is having particular professional experience as required, he is at liberty to get himself registered on the aforesaid Nigam's portal and it is not for the Civil Surgeon to do the same.

6. In any case, since the facts including the stand taken by the Civil Surgeon is disputed, writ petition is disposed of on both counts; neither being maintainable nor even otherwise adjudicable in view of *ex facie* disputed facts which cannot be decided merely on the basis of affidavits under the extraordinary writ jurisdiction. Liberty is given to the petitioner to seek his alternative remedy, as may be available.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

November 16, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No