

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

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CWP-29312-2022

Date of decision : 19.12.2022.

Ravinder and others

... Petitioners

Versus

State of Haryana and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Raman B. Garg, Advocate,
Ms. Gitanjali Garg, Advocate and
Mr. Mayank Garg, Advocate for the petitioners.

Anupinder Singh Grewal, J. (Oral)

The petitioners are seeking a direction to the respondents not to change their service conditions by shifting them to Haryana Kaushal Rozgar Nigam Ltd.-respondent No.3.

Learned counsel for the petitioners submits that the service conditions of the petitioners, who have been working with respondent No.2 for over six to eleven years, are being changed by engaging them through Haryana Kaushal Rozgar Nigam Ltd.-respondent No.3. He also submits that the petitioners are working on outsourcing basis but their control is with the Municipal Corporation as it is at their behest that the choice of employees, who have to be employed through outsourcing agency, is made.

Heard.

A perusal of the petition indicates that the petitioners were initially appointed on contract basis with respondent No.2 but later they were appointed through outsourcing agency. They did not raise any objection at that time. They had been working for over ten years through outsourcing agency and were being paid salary through outsourcing agency. It has been held by this

Court in CWP No.18798 of 2021 titled as **Yogesh Sharma versus Municipal Corporation, Faridabad and others**, decided on 12.05.2022 by relying on the judgment of the Division Bench of this Court in the case of **Nishan Singh and others versus State of Punjab and others, 2014(11) RCR (Civil) 262** that the petition filed by an employee working on outsourced basis would not be maintainable as the outsourcing agency does not come within the definition of State under Article 12 of the Constitution of India. The relevant extract thereof is reproduced hereunder:-

“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.”

In view of the above, I do not find any merit in this petition, especially when the petitioners have been working through outsourcing agency and are being paid salary through the outsourcing agency.

Consequently, the petition stands dismissed.

However, this order shall not preclude the petitioners from seeking recourse to alternative remedy available to them under the law.

(ANUPINDER SINGH GREWAL)
JUDGE

December 19, 2022

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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No