

138 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1275-2023

Date of decision: 23.01.2023

NIRAJ

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R. S. Dhull, Advocate for the petitioner.

JAISHREE THAKUR, J. (Oral)

The instant writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of certiorari for quashing orders dated 27.04.2022 (Annexure P-2), dated 31.10.2022 (Annexure P-3), whereby recommendation has been sent to respondent No.5-Outsourcing Agency to terminate the services of the petitioner and order dated 15.11.2022 (Annexure P-4), whereby the services of the petitioner have been terminated by respondent No.5 and further to issue a writ in the nature of mandamus directing the respondents to take the petitioner back in service and release the pending salary and benefits.

In brief, the facts as stated are that the petitioner was appointed on the post of Junior Engineer (Electricity) on 20.06.2012 on outsourcing basis as per the outsourcing policy of the respondent-University. One false complaint was filed against the petitioner in the year 2014 and ultimately, a report was submitted by respondent No.4-the Director General, State Vigilance Bureau,

Haryana to respondent No.1-the Chief Secretary, Haryana. On receipt of the said report, respondent No.1 directly recommended respondent No.2-the Additional Chief Secretary, Department of Higher Education, Haryana to terminate the services of the petitioner. Thereafter, respondent No.3-University on the recommendation received, directed respondent No.5-Outsourcing Agency to terminate the services of the petitioner and as per the direction received, the services of the petitioner were terminated by respondent No.5.

Learned counsel for the petitioner would urge that even though a complaint had been made against the petitioner in the year 2014, the petitioner continued to work in the University for a period of eight years thereafter, without any complaint. However, without following due process of giving the petitioner personal hearing and an opportunity to defend himself, his services have been terminated. It is argued that respondent No.1 has exceeded its authority in issuing recommendation for termination of the services of the petitioner and in fact, the University is an autonomous body and is not under the direct control of respondent No.1. It is submitted that period of eight years have lapsed since a complaint was filed and he has an unblemished record. He has also not been paid his pending salary for the entire period of service rendered by him.

I have heard learned counsel for the petitioner and have also perused the pleadings of the case.

I find that the present writ petition itself is not maintainable. It is an admitted fact that the petitioner herein came to be appointed through respondent No.5 an outsourcing agency, who is a service provider and not by respondent No.3-University. The argument that the services of the petitioner

could not have been terminated without following the procedure of issuing show cause notice and opportunity of hearing, would have no force considering the fact that the services of the petitioner have been terminated by the service provider itself and not by the respondent-University. The instant writ petition would not be maintainable in the present situation

There are several judgments rendered by this Court in *Nishan Singh and others versus State of Punjab and others, 2014 (11) RCR (Civil) 262; Sharanbir Kaur versus State of Punjab and others, LPA No.1910 of 2018*, decided on 10.12.2018; *Vikash versus The State of Haryana and others, CWP No.19762 of 2018*, decided on 11.12.2019; *Yamin and others versus State of Haryana and others, CWP No.1822 of 2019*, decided on 19.08.2020 and *Balbeer Singh and others versus Haryana State Warehousing Corporation and others, CWP No.17478 of 2020*, decided on 07.12.2020, holding the said fact.

This Court would draw strength from the judgment rendered by the Division Bench of this Court in Nishan Singh's case (supra), wherein it has been clearly held that the service provider is not an agency of the State to make recruitments against the civil posts and, therefore, the writ petition itself would not be maintainable.

Consequently, the instant writ petition is dismissed, leaving it open to the petitioner to avail of his remedy, in accordance with law.

(JAISHREE THAKUR)
JUDGE

23.01.2023
Chetan Thakur

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