

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.5708 of 2020 (O&M)

Date of Decision.01.02.2023

Baljeet Singh and others

...Petitioners

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sube S. Kaushik, Advocate
for the petitioners No.1 to 3 and 5 to 21.

Mr. Jagjit Singh Gill, Advocate
for petitioner No.4.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Kuldeep Singh, Advocate
for respondent No.4.

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JAISHREE THAKUR J. (ORAL)

1. This writ petition has been preferred by 21 petitioners, who were employed with the respondent No.4-Sirsa Central Co-operative Bank Ltd., Sirsa (hereinafter referred to as Cooperative Bank) as Computer Operators. Services of the petitioners herein were placed with the said Cooperative Bank through an outsourcing agency namely M/s Ding Manpower and Securities Service Pvt. Ltd., Sirsa. The petitioners, who were working without any hindrance or any complaint with the Cooperative Bank, were served with notice of termination, one such letter being Annexure P-5 dated 31.01.2020. Against the said termination of services, present writ petition has been filed.

2. During pendency of the writ petition, petitioners No.2, 3, 5, 7, 20 & 21 withdraw the petition qua them.

3. Learned counsel appearing on behalf of the remaining petitioners would contend that services of petitioners ought not to have been terminated without following due procedure and appointment of other candidates against their posts on contract basis is against the law settled by the Hon'ble Supreme Court in *Hargurpratap Singh Vs. State of Punjab and others* (2007) 13 SCC 292. It is submitted that till regular appointments are made by the Cooperative Bank, petitioners be reinstated in service.

4. Pursuant to notice of motion having been issued, appearance has been caused on behalf of the respondent-State and the contesting Cooperative Bank.

5. Learned counsel appearing for the respondents would submit that the writ petition itself is not maintainable by contending that petitioners herein were appointed to work at the Cooperative Bank through an outsourcing agency and the said agency has not even been impleaded in these proceedings. It is contended that the Cooperative Bank has not issued any appointment order in favour of petitioners herein and therefore, there is no master-servant relationship between the respondent-Bank and the petitioners herein. It is on this ground alone, the writ petition is not maintainable. It is further argued that the State of Haryana has come up with a new policy dated 30.06.2022 called Deployment of Contractual Employees, which is applicable for deployment of contractual manpower through Haryana Kaushal Rozgar Nigam Limited and in case, petitioners so desire, they should get themselves registered on the portal as maintained by the said Nigam.

6. I have heard learned counsel for the parties and have gone through pleadings of the case as well as case laws cited. Admittedly, petitioners herein were working with the Cooperative Bank, however, they were offered

appointment through an outsourcing agency. The law in this regard is well settled that an outsourcing agency is not an instrumentality of the State and therefore, any appointment offered by it would not constitute a civil post. In this regard, reference can be made to the judgment rendered by the Division Bench of this Court in *Nishan Singh Vs. State of Punjab and others 2014 (11) RCR (Civil) 262* wherein it has been held that service provider is not an agency of the State to make recruitment against the civil posts and therefore, action of the respondent-University dispensing with service of the contractor cannot be challenged. Reliance has also been placed upon the judgment rendered by this Court in *Vikash Vs. The State of Haryana and others* passed in CWP No.19762 of 2018 decided on 11.12.2019 wherein it has been held that no writ petition would lie against an outsourcing agency being a private entity, which is not an authority in terms of Article 12 of the Constitution of India.

7. At this juncture, learned counsel appearing for the petitioners would also point out that petitioner No.4 has already approached the Haryana Kaushal Rozgar Nigam Limited for being enlisted on its portal. Petitioners have lost their means of livelihood and despite a policy coming into effect on 30.06.2022 and despite the fact that they have applied for registration on the portal of the Haryana Kaushal Rozgar Nigam Limited in terms of said policy, they are not being registered thereon.

8. Even this Court has come to the conclusion that the present writ petition is not maintainable but taking into account the fact that the welfare State has come up with a policy dated 30.06.2022, which would ensure employment, it would be duty bound to look into applications submitted by petitioners for being registered on the said portal. In case, the contesting petitioners prefer fresh applications for registration on the portal of Haryana

Kaushal Rozgar Nigam Limited within a period of one week from the date of receipt of certified copy of this order, the respondent-State through aforesaid Nigam would consider their applications in terms of policy so issued. Let the needful be done within a period of one month on receipt of such applications.

9. The instant writ petition is disposed of in aforesaid terms.

February 01, 2023

Pankaj*

(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No