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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11432-2021
Date of decision: 23.01.2023

MANISH KUMAR

...Petitioner

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajat Mor, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

1. This is a petition that has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing letter dated 12.07.2019 (Annexure P-1), whereby the services of the petitioner have been dispensed with without issuing any notice, after the petitioner had worked as Shift Attendant for more than three years, with a further prayer for issuance of a writ in the nature of mandamus directing the respondents to re-join the petitioner on the said post along with all consequential benefits.

2. In brief, the facts as stated are that the petitioner being fully eligible was appointed on the post of Shift Attendant by UHBVNL in the year 2016 on contract basis. However, his services came to be terminated on 12.07.2019 vide impugned order. Aggrieved against the said termination order,

the present writ petition has been filed.

3. Learned counsel for the petitioner would lay great stress on the fact that after having served for a period of almost three years, his services have been terminated without giving any opportunity of hearing while further submitting that the connected matter is pending in this Court i.e. CWP No.24060 of 2019, titled as Pawan Kumar versus UHBVNL and another, which is listed for 10.02.2023. It is argued that the procedure of termination for contractual employee would envisage due notice and opportunity of hearing. He would rely upon a judgment rendered by this Court in CWP No.19281 of 2018, titled as Rashmi Sharma versus Mewat Development Agency and others, decided on 14.10.2019, in support of his arguments.

4. Notice of motion.

5. Ms. Nikita Goel, who is present in Court, accepts notice on behalf of the respondents and would argue that the petitioner herein was appointed as Shift Attendant and was neither a permanent employee/temporary employee or an employee appointed on contract basis. In fact, UHBVNL had appointed M/s Shree Jee Man Power Contractors Pvt. Ltd., Faridabad as an outsourcing agency to provide services to the respondents and the petitioner herein was in service with the respondents purely as a person whose services were supplied through the said Contractor.

6. It is submitted that there is no privity of contract between the respondents and the petitioner herein. In fact, services of the petitioner have been dispensed with by the outsourcing agency and not by the respondents itself. It is further submitted that the instant writ petition would not be

maintainable in the present situation. Reliance in this regard has been placed upon the 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, in support of her arguments.

It is argued that the Division Bench of this Court in Nishan Singh's case (supra) has 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.

7. I have heard learned counsel for the parties and have also perused the pleadings of the case as well as case laws cited.

8. The argument that the service of the petitioner could not have been terminated without following the procedure of issuing show cause notice and opportunity of hearing would have no bearing considering that the services of the petitioner have been terminated by the service provider itself and not by the respondents. This service provider had entered into an agreement with the respondents to provide workforce on certain terms and conditions. In case the petitioner herein is aggrieved against any action of the service provider in terminating his services, he would have a remedy other than that of filing the writ petition. The judgments, as relied upon by the respondents, are fully applicable to the issue raised in the writ petition. There is no ground to

interfere in the issue raised.

9. Consequently, the instant writ petition is dismissed.

23.01.2023
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No