

CM-13061-CWP-2023 in/and CWP-21275-2021  
2023:PHHC:108873 1

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

**(105-A) CM-13061-CWP-2023 in/and  
CWP-21275-2021  
Date of Decision : August 22, 2023**

**Ashok Kumar** **.. Petitioner**

## Versus

**State of Haryana and others .. Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Rajesh Khandelwal, Advocate, for the applicant-petitioner.

Mr. Pankaj Middha, Addl. Advocate General, Haryana.

**HARSIMRAN SINGH SETHI J. (ORAL)**

**CM-13061-CWP-2023**

Present application has been filed for preponing the date of hearing of the main writ petition i.e. CWP No.21275 of 2021 from 18.12.2023 to an early actual date.

Notice of the application to the counsel opposite.

Mr. Pankaj Middha, learned Addl. Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondents and raises no objection for the grant of prayer as made in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and hearing of the main writ petition i.e. CWP No.21275 of 2021 is preponed from

18.12.2023 to today.

**CWP-21275-2021**

1. In the present petition, the grievance of the petitioner is that his services have wrongly been terminated by the respondent-State, hence, the petitioner is entitled to continue in service.

2. From the averments made in the present petition, learned counsel for the petitioner submits that the petitioner was appointed as a Driver against a regular sanctioned post on 14.07.2016 and has been working on contractual basis against the said post hence, he is entitled to continue in service and the termination of the services by the Zila Parishad is bad.

3. Upon notice of motion, the respondents have filed the written statement wherein, it has been mentioned that the claim of the petitioner that the Zila Parishad is the employer of the petitioner, is incorrect. As per the reply filed, the petitioner was engaged through a service provider and his service provider was M/s S.M Enterprises with whom, the Zila Parishad had entered into an agreement for providing the work force. It has been further mentioned that there is no master and servant relationship between the petitioner and Zila Parishad and the employer of the petitioner is the private service provider against whom, no writ petition is maintainable.

4. Learned counsel for the petitioners submits that though no replication to the written statement has been filed but in the facts and circumstances of the present case as the petitioner was working under the control of the Zila Parishad, the petitioner is deemed to be employee of the Zila Parishad for all intents and purposes.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. It may be noticed that learned counsel for the petitioner has not been able to produce any order appointing the petitioner in the Zila Parishad, issued by the Zila Parishad authority.

7. Further, the contention of the learned counsel for the respondents that the petitioner was appointed through an outsourcing agency, has not been denied by the learned counsel for the petitioner. The only argument being raised by the learned counsel for the petitioner is that as the petitioner was working under the control of the Zila Parishad, he is deemed to be an employee of the Zila Parishad for all intents and purposes especially in view of the certain orders which have been passed by the respondents qua working of the petitioner wherein, the respondent Government has mentioned that no regulation was followed while terminating the services of the petitioner, hence a writ petition is maintainable.

8. It may be noticed that a writ petition is only maintainable against the Government or any other authority as envisaged under Article 12 of the Constitution of India.

9. The question whether an employee who has been employed through a private agency/service provider, the writ petition will be maintainable or not, the same has already been decided by this Court while passing order in ***CWP No.12274 of 2020 titled as Kumar Saurabh and others vs. State of Haryana and others, decided on 30.09.2020.***

10. In the said decision, this Court has already opined that any employee, who is employed through service provider and his/her services have been terminated, the writ petition will not be maintainable, hence, keeping in view the said principle of law, as concededly the petitioner has

been appointed through a service provider/outsourcing agency, the present petition will not be maintainable.

11. Once, there is no master and servant relationship established on the basis of any appointment order issued to the petitioner by the Zila Parishad, merely that the petitioner was appointed by a service provider and posted with the Zila Parishad does not entitle the petitioner to claim that he is the employee of Zila Parishad for all intents and purposes.

12. Keeping in view the above, the present petition is held to be not maintainable before this Court. The petitioner is relegated to avail appropriate remedy against the service provider in case he intends to do so.

13. Dismissed.

**August 22, 2023**  
*harsha*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

Whether speaking/reasoned : Yes  
Whether reportable : No