

102.

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

CWP-26031-2019

Date of Decision: 16.02.2023

RAVINDER SINGH

.... Petitioner

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Keshav Gupta, Advocate, for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

Mr. Shreenath A. Khemka, Advocate, for respondent No.2 & 3.

JAISHREE THAKUR.J (Oral)

The instant writ petition has been filed under Article 226 of the Constitution of India seeking a writ in the nature of mandamus to be issued to respondents to allow the petitioner herein to mark his attendance and to work on the post of Shift Attendant and to give him a permanent job apart from paying him compensation and salary for the period during which he was undergoing treatment i.e. from 11.07.2018 till 30.10.2018.

Learned counsel appearing on behalf of the petitioner would urge that the petitioner had been appointed with the HVPN Ltd. through an outsourcing agency and while working, he suffered injuries and became disabled to the extent of 50%. It is submitted that with the disability suffered by him, he would be protected qua his employment, as envisaged under Section 20 (4) of the Right of Persons with Disabilities Act, 2016 which

clearly stipulates that no government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service.

Pursuant to notice of motion having been issued, appearance has been caused on behalf of the contesting respondents No.2 and 3. Learned counsel appearing on their behalf would urge that in fact the very writ petition is not maintainable on account of the fact that the services of the petitioner were placed under the disposal of the Nigam through an outsourcing agency i.e. respondent No.4 and in view of the authoritative pronouncements of the High Court, particularly the Division Bench in ***Nishan Singh and others Versus State of Punjab and others, 2014 (11) RCR (Civil) 262***, the writ petition against an outsourcing agency would not lie.

At this stage, counsel appearing on behalf of the petitioner herein would contend that in fact the petitioner has been offered a deployment letter through Haryana Kaushal Rozgar Nigam Limited, Haryana to work as a Shift Attendant at Haryana Vidyut Prasaran Nigam Limited, Jind and, therefore, would not press the instant writ petition. At the present moment, however, there is an apprehension that the services of the petitioner would be terminated at the end of the financial year i.e. 31.03.2023 since he has been deployed to contract with the Nigam till such time. He would further submit that his services cannot be terminated in view of the authoritative pronouncement rendered in ***LPA No.171 of 2018, Dakshin Haryana Bijli Vitran Nigam Limited and another Versus Gulab Singh and another, decided on 27.02.2018***, which had taken note of a judgment

rendered by a Division Bench of Rajasthan High Court in *Secretary (Admn.), JVVNL, Jodhpur and others Versus Ashok Kumar and another, 2014(4) DNJ (Rajasthan) 1324*, which subsequently stands affirmed by the dismissal of the SLP filed.

I have heard learned counsel for the parties and in view of the fact that the initial prayer of the petitioner seeking permission to continue with work, stands redressed by an employment letter offered by the Haryana Kaushal Rozgar Nigam Limited, Haryana, this writ petition has rendered infructuous to that extent. However, in case, the Nigam for some reason proposes to dispense with the services of the petitioner herein, a speaking order would be passed taking note of the judgments as relied upon by the counsel for the petitioner to the extent that the services of a person who has suffered disability cannot be dispensed with summarily.

One of the prayers made is for regularization of his service in terms of the provisions of the Right of Persons with Disabilities Act, 2016.

In case the petitioner approaches the department for any such prayer, the same shall be dealt with in accordance with law.

Petition stands disposed of accordingly.

(JAISHREE THAKUR)
JUDGE

16.02.2023

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No