

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(224) CWP-6148-2019(O&M)
Date of Decision : 04.04.2024

Rajender Kumar and others ...Petitioner

Versus

State of Haryana and others ...Respondents

(224/2) COCP-1414-2020(O&M)

Rajender Kumar and others ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sachin Gupta (Ladwa), Advocate
for the petitioners.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. By this common order, CWP-6148-2019 as well as COCP-1414-2020, the details of which have been given in the heading, are being decided as both these petitions involve the same question of law on similar facts.
2. The prayer of the petitioners in the present petitions is that the petitioners should be allowed to continue in service till they are replaced by regular selected employees.
3. Upon notice of motion, the respondents have filed the reply, wherein, the respondents have stated that the petitioners are not the

employees of the State but have been appointed through outsourcing agency i.e. a private contractor and as there is no master and servant relationship between the petitioners and respondents, no benefit of continuance in service against the State can be sought. The details of the Contractor, under whom the petitioners have been appointed, have been detailed in paragraph 1 of the reply. The said averments have gone un-rebutted.

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

5. The first question, which arise is whether the petitioners, who are the employees of a private contractor, can approach this Court by filing the present petitions and the same will be maintainable or not. The said question has already been answered by this Court while deciding CWP No. 12274 of 2020 titled as ***Kumar Saurabh and others Vs. State of Haryana and others***, decided on 30.09.2020. It has already been held that the employees of the outsourcing agency, have no right to file the writ petition as the same will not be maintainable as the outsourcing agency cannot be treated as a State or the instrumentality of the State.

6. Learned counsel for the petitioners has not been able to rebut the same but submits that keeping in view the judgment of 05 Judge Bench of this Court in CWP No. 11299 of 1996 titled as ***Ravneet Kaur Vs. The Christian Medical College, Ludhiana***, decided on 06.05.1997, the writ petition is maintainable wherever, the public functions are performed.

7. It may be noticed that the judgment in ***Ravneet Kaur (supra)***, relates to the grant of admission on the basis of the joint entrance test. The same did not relate to the employment with the private agency so as to claim benefit against the same. The judgment in ***Ravneet Kaur (supra)***, is not applicable in the facts and circumstances of the present case.

8. Keeping in view the above, as per the law settled in ***Kumar Saurabh and others (supra)***, the present CWP-6148-2019 as well as COCP-1414-2020 are not maintainable and are dismissed as such with liberty to the petitioners to avail appropriate remedy for the redressal of their grievances before appropriate forum.

9. The miscellaneous applications, if any pending, are disposed of.

A photocopy of this order be placed on the file of connected cases.

April 4th, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No