

CWP-15531 of 2024

2024:PHHC:085367



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

CWP-15531 of 2024

Date of decision: 10.07.2024

Pardeep

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Ms. Meenu Mumtaz, Advocate,
for Mr. Sanjay Jangra, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

NAMIT KUMAR, J.

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to reinstate him as another contractual employee has been recruited in place of the petitioner, terminating his services in violation of his Fundamental Right to Livelihood and the principles of natural justice.

2. Brief facts of the case, as narrated by the petitioner in the present petition, are that the petitioner was appointed as Beldar in the office of respondent No.2 on 08.08.2015 through outsource agency. He rendered his services continuously even during Covid-19 pandemic. However, his services were terminated on 07.07.2021 without issuing any prior notice and without affording any opportunity of hearing. Petitioner moved representation dated 08.04.2024 to respondent No.3 to reinstate him in service. However, respondent No.3 vide letter dated



16.05.2024 has refused to take back the petitioner in service for the reason that he was an outsource employee. Hence, this writ petition.

3. I have heard learned counsel for the parties and perused the record.

4. Perusal of the averments made in the petition shows that appointment of the petitioner was through outsource agency. Since the petitioner was appointed in the office of respondent No.2 through outsource agency i.e. respondent No.4, therefore, the present writ petition is not maintainable. It is settled law that no writ petition would lie against an outsourcing agency, as it is not an authority in terms of Article 12 of the Constitution of India. Reference can be made to the judgment of a Division Bench of this Court in the case of ***Nishan Singh and others Vs. State of Punjab and others : 2014 (11) RCR (Civil) 262***, wherein it has been held that the service provider, who has selected the candidates for work in the government department, is not an agency of the State. The appellants therein were neither selected under any service rules applicable to regular employees of the State of Punjab nor did they apply under any advertisement for their appointment as contractual or regular employees of the state. It was further held that the acceptance of the claim of the appellants therein for continuation of services would amount to a back door entry to public employment in total disregard to the mandate of Articles 14 and 16 of the Constitution of India.

5. In the case of ***Anmol Garg and another Vs. State of Punjab and others, bearing CWP No. 29655 of 2018, decided on***



28.11.2018, a Coordinate Bench of this Court dismissed the writ petition preferred by an employee engaged through outsourcing agency which was upheld by a Division Bench in **LPA No. 1910 of 2018, decided on 10.12.2018** and the operative part thereof is reproduced hereunder:-

“Learned Single Judge finding that the appellant was an employee of outsourcing agency which was having a license under the contract to supply manpower held there was no privity of contract between the appellant and the employer and she was not even a contractual employee. The principle being canvassed before us applies only in case there is a privity of contract between the employee and the employer. In the case in hand, the appellant was an employee of the service provider. The benefit of the said principle is not liable to be extended to her and, thus, we do not find any illegality committed by learned Single Judge in dismissing the writ petition.”

6. Reference can also be made to the orders of the Coordinate Benches of this Court passed in the cases of **'Vikas versus The State of Haryana and others' bearing CWP No.19762 of 2018, decided on 11.12.2019, 'Kailash Chand and others versus Urban Local Bodies Department, Haryana and others', bearing CWP No.21345 of 2021, decided on 18.01.2022** and **'Naresh Kumar and others versus Haryana State Warehousing Corporation and others', bearing CWP No.17454 of 2020, decided on 02.12.2020**, wherein similar petitions of outsourcing employees were also dismissed.

7. Thus, petitioner has no legal right to continue in service inasmuch as he was appointed through an outsource agency.



8. Moreover, case of the petitioner suffers from delay and laches. His services were terminated by the service provider on 07.07.2021 and the present petition has been filed after a gap of three years.

9. In view of the above, I do not find any merit in this petition. Consequently, the present writ petition is dismissed.

10.07.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No