



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

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**CWP-23734-2017 (O&M)
Date of decision 09.09.2024**

Sandeep Hooda and anotherPetitioners

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Mohit Rathee, Advocate for the petitioners.

Mr. Saurabh Mohunta, D.A.G., Haryana.

NAMIT KUMAR, J. (ORAL)

1. The petitioners have approached this Court by filing the instant petition under Articles 226 and 227 of the Constitution of India, seeking a writ of mandamus, directing the respondents to reinstate the petitioners as Pump Operators, who have not been allowed to join their services from 10.10.2017 and 09.10.2017, respectively.

2. Brief facts, as have been pleaded in the instant petition, are that petitioners No.1 and 2 were appointed as Pump Operator on 18.10.2014 and 01.09.2014, respectively, on D.C. rates through outsource agency and the services of the petitioners were terminated verbally on 10.10.2017 and 09.10.2017, respectively by respondent No.4 without granting any opportunity of having or serving any notice upon them. Hence the present petition.

3. Written statement on behalf of the respondents has been filed wherein it has been stated that the petitioners were working in the office of Executive Engineer, Rohtak Water Services Division, Rohtak

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and were engaged through agency namely Shidhi Vinayaka Enterprises Private Limited. It has also been stated that an agreement was executed between the Executive Engineer, Rohtak Water Services Division, Rohtak and the said agency on 14.08.2014 for outsourcing the manpower and the same has been placed on record as Annexure R-1. It has further been stated that there is no relationship of an employer and the employee between the department and the agency. The agency is the employer of the petitioners and is making payment of salary to them on D.C. rates. It has also been denied that the petitioners were refused to allow to do their duty on 09.10.2017 and 10.10.2017. It has also been stated that the said agency namely Shidhi Vinayaka Enterprises Private Limited has not been impleaded as party respondent in the petition.

4. Learned counsel for the petitioners submits that the petitioners were terminated from service by respondent No.4 without giving any notice to them in unilateral manner. The petitioners were being replaced by other contractual employees, who were having influence of local MLA. He submits that the vacancies of Pump Operators are available and the services of the petitioners are required by the respondents and the petitioners are fully eligible for the said posts. Therefore, they should be allowed to continue in service.

5. Per contra, learned State counsel submits that the instant petition is not maintainable as the same is being filed against an outsource agency.

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



7. 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.

8. 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.”

9. Reference can also be made to the orders of the Coordinate Benches of this Court passed in the cases of '**Vikash 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.

10. Further, the outsource agency namely Shidhi Vinayaka Enterprises Private Limited has not been impleaded as party respondent in the instant petition. Therefore, the present writ petition is liable to be dismissed for non-joinder of necessary party.

11. In view of the above, I do not find any merit in this petition, especially when the petitioners were employed on contractual basis.

12. Consequently, the present writ petition is dismissed.

09.09.2024
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No