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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-3088-2018
Date of Decision: 22.04.2024

Aarif Hussain

..... Petitioner

Versus

DHBVN and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Munfaid Khan, Advocate,
for the petitioner.

Mr. Himanshu Arora, Advocate,
for the respondents.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ, order or direction especially in the nature of *mandamus* directing the respondent No.4 for reinstatement of the petitioner and to grant all other consequential benefits.
2. Learned counsel for the petitioner submitted that the petitioner was appointed as ALM on DC rates on 01.12.2012 by an outsourcing agency. Thereafter, there was a complaint against the petitioner under Sections 323, 354, 354-B, 506, 509 IPC and he was summoned to face trial by the learned trial Court on 19.12.2016. He further submitted that the petitioner was not permitted to join the duty from 19.10.2016 after the complaint was filed. Since the complaint was filed vide Annexure P-1 on 18.10.2016 and on the very next date, the outsourcing agency did not permit

him to work on duty and has submitted that against the aforesaid complaint, a quashing petition has been filed before this Court which is pending.

3. On the other hand, Mr. Himanshu Arora, learned counsel for the respondents submitted that the present petition is not even maintainable in view of the fact that the petitioner was appointed by an outsourcing agency in the year 2012 and the outsourcing agency has not even been impleaded as party in the present case and submitted that the prayer in the present petition is for seeking re-engagement by seeking a direction to respondent No.4, which is an Executive Engineer (OP) and submitted that there was no privity of contract between the respondent No.4 and the petitioner nor any master and servant relationship existed. He submitted that therefore, the aforesaid prayer is not even sustainable.

4. I have heard the learned counsel for the parties.

5. It is a case where the petitioner was appointed by the outsourcing agency who is not even a party in the present case. The prayer in the present petition is for seeking a direction to respondent No.4-Executive Engineer for re-engagement since as per the learned counsel for the petitioner from 19.10.2016 he was not permitted to be joined by the outsourcing agency. From the argument raised by the learned counsel for the parties, it transpires that there was no privity of contract between the petitioner and any of the respondent. The outsourcing agency has not been impleaded in the present case. The petitioner was stated to be on contractual appointment. The prayer in the present petition is for seeking reinstatement. No such writ in the nature of *mandamus* can be issued to a person who is not even a party in the present case and also for re-instatement of a contractual

employee.

6. Consequently, the present petition is, hereby, dismissed being devoid of merit.

22.04.2024 (JASGURPREET SINGH PURI)
Bhumika JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |