

(2022) 08 P&H CK 0081

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 17342 Of 2022

Satish Kumar And Others

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 16-08-2022

Acts Referred:

Constitution Of India, 1950 — Article 12, 14, 16

Citation : (2022) 08 P&H CK 0081

Hon'ble Judges : Anupinder Singh Grewal, J

Bench : Single Bench

Advocate : Sachin Gupta Ladwa

Final Decision : Dismissed

Judgement

Anupinder Singh Grewal, J

The petitioners have challenged the order dated 09.11.2021 (Annexure P-9) whereby their claim to take them on the pay roll of Municipal Committee, Safidon has been rejected.

Learned counsel for the petitioners submits that the services of the petitioners, who had been engaged as Safai Karamcharis in July, 2017 on contractual basis with the respondent/Municipal Committee, Safidon, had been discontinued without assigning any reasons. The petitioners had served a legal notice to the respondents in this regard but their claim had been rejected while passing the impugned order (Annexure P-9).

Heard.

A perusal of the impugned order indicates that the petitioners were appointed through outsourcing agency i.e. M/S K.L. Madan whose contract had expired on 07.07.2018. It is settled law that no writ petition would lie against an outsourcing agency, insofar as it is not an authority in terms of Article 12 of the Constitution of India and reference can be made to the judgment of a Division

Bench of this court in the case of Nishan Singh and others versus 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.

In the case of Anmol Garg and another versus State of Punjab and others, bearing CWP No.29655 of 2018, decided on 28.11.2018, 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."

Reference can also be made to the orders of the Coordinate Benches of this Court 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.

In view of the above, I do not find any merit in this petition, especially when the petitioners were employed through outsourcing agency and were also being paid salary through the outsourcing agency.

Consequently, the petition stands dismissed.

However, this order shall not preclude the petitioners from seeking recourse to alternative remedy available to them under the law.