

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

Civil Writ Petition No.19240 of 2011

Date of decision: 12.10.2015

Sanjay Dahiya and others

... Petitioners

Versus

Union of India and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Babbar Bhan, Advocate,
for the petitioner.

Mr.Brijeshwar Singh Kanwar, Sr.Standing Counsel, UOI.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

The only two documents relied upon to prove the relationship of employer and employees in a dispute raised by the Union were the identity cards issued to the petitioners, claimants before the Labour Court, and the attendance sheets signed by an agent of the management. The management is the Regional Drug Testing Laboratory, Government of India, Sector 39, Chandigarh (RDTL). No other evidence was adduced by the parties before the Labour Court on record to prove payment of wages directly by the RDTL. The Labour Court has not attached any weight to these two documents and has concluded that the relationship of employer

and employee/s was not established in this case. In any event, there was a contractor in between who supplied the petitioners' services as Security Guards to look after the security concerns of the RDTL.

2. It is well known in the working of Labour contracts that the management would mark the attendance of the workmen engaged through a contractor to be the authentic record of attendance on which wages are paid by the management directly to the contractor in terms of service contract for onward payment to the contract labour engaged by the contractor to work for the management. There is no contract of service existing between the petitioner and the members of the union but what exists is a contract for service arranged by the contractor to work at the establishment of the petitioner for a specified purpose. Some degree of supervision is necessary over the work of the Security Guards as they protect management's property and assets and take instructions from the agents of the management. This alone will not create employment relationship between the parties.

3. When this matter came up before this Court on 25.11.2014, learned counsel for the petitioner prayed for time to take instructions on the issue whether the workmen had at any stage before the Labour Court filed an application to summon the relevant record from the management to substantiate that plea they were the direct employees of RDTL and were working under its administrative control and supervision.

4. No steps have been taken by the petitioners to respond to the Court query and on 8.12.2014, they prayed for further time to complete their instructions in the light of the order dated 25.11.2014. That is how the matter was adjourned to 10.4.2015. Even today no steps have been taken to

produce any proof of application presented before the Labour Court calling upon the management or the contractor to summon the record. These two orders were obviously passed by this Court to satisfy its conscience and to rule out any doubt the court may have, even when voluminous record of the case has been placed in the paper book of this writ petition which does not reveal any such step taken in the Court *a quo*.

5. The present case is a case of no evidence. None whatsoever, has been produced even for the first time which might speak in favour of the Security Guards.

6. I do not find any infirmity or error in the award passed by the Labour Court on 31.3.2011 in Industrial Reference No.27 of 2010.

7. For the above reasons, this petition is without any substance and is accordingly dismissed.

(RAJIV NARAIN RAINA)
JUDGE

October 12, 2015
Paritosh Kumar