

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

Civil Writ Petition No.22404 of 2015

Date of decision: 19.10.2015

Ved Prakash

... Petitioner

Versus

The Presiding Officer and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Ashutosh Kaushik, Advocate,
for the petitioner.

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 attendance register on which the petitioner has pegged his hopes is actually a Watchman Register running into 100 pages. But this document alone is not proof of employment of the kind which creates the relationship of master and servant under a contract of service. The workmen's register could at best be evidence of presence which makes the watchman accountable for the period spent in a warehouse to clean, maintain and look after the stocks that may be lying in the overall custody of the Warehousing Corporation. The period of service claimed is from 7.5.2000 to 23.8.2001.

The admitted position is that there is no appointment letter on record nor a termination order. The Haryana Warehousing Corporation has

disputed the workmen's register as an authentic document establishing employer and employee relationship. The evidence of co-worker Gulzar Singh who may have worked shoulder to shoulder with the workman is at a best corroborative parol evidence but not direct evidence to establish employer and employee relationship. Parol evidence is of much inferior quality than documentary evidence. In the absence of proof of employer-employee relationship, the jurisdictional fact of employment is not established on record and the relationship, if any, can at best be regarded as one of contract for service and not a contract of service between Ved Prakash and the Corporation.

The Labour Court has placed no faith and trust on the watchmen's register which has mistakenly been called as an attendance register before the Labour Court and even today before this Court in the argument raised by Mr.Kaushik appearing for the petitioner. There is a vast difference between an Attendance Register and the Watchman Register. They are meant to serve different purposes. In the face of record available, I have no scope left to interfere in this matter and that too after the opinion formed by the Labour Court in its discretion has been exercised judicially and judiciously in declining the reference and denying relief.

This Court in its supervisory jurisdiction under Articles 226 and 227 of the Constitution of India plays a role in secondary review and does not sit in appeal over the awards of the Labour Courts and Tribunals or substitute its opinion for that taken by the Labour Court which view is a possible and a plausible one taken after appreciating the evidence on file.

For these reasons, I would decline to interfere in the matter and

would dismiss the petition as without substance.

(RAJIV NARAIN RAINA)
JUDGE

October 19, 2015
Paritosh Kumar