

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17009 of 2015 (O&M)
Date of Decision:-08.11.2016.

Executive Engineer, Rohtak Water Services Division, Rohtak

.....Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak and
another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Rajesh Khandelwal, Advocate for
Mr. Mohit Rathee, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has assailed the award passed by the Labour Court dated 13.11.2014 vide Annexure P-1.

2.) The respondent-workman was appointed as a Canal Patwari on 29.4.2008 on *ad hoc* basis. He was working under the office of the Executive Engineer and he was paid wages at D.C. Rate. His services were terminated in the year 2010. Thus, the respondent-workman raised an industrial dispute. The reference was decided by the Labour Court on 13.11.2014. The Labour Court framed the following issues.

“4. The workman in his replication reiterated his earlier stand. From the pleadings of the parties, following issues we named:-

(1) Whether there exists relationship of

Master and servant between the parties? OPW.

(2) Whether termination of services of workman is justified and if to what relief he is entitled to? OPW”

3.) The Labour Court after considering the evidence adduced by the then Executive Engineer, Viney Grover read with Exhibit M-1/C Agreement regarding supply of Labour and not Canal Patwari and also perusal of Roznamcha/Attendance Register Exhibit W-8 and Exhibit W-2 allowed the claim of the respondent workman while holding that he is entitled for reinstatement along with continuity of service and 50% back wages from the date of demand notice i.e. 18.8.2010.

4.) Learned counsel for the petitioner submitted that there is no relationship of employer and employee between the petitioner and the respondent-workman, since respondent-workman was appointed through M/s Friends Corporate Service Pvt. Ltd. and he relied on agreement between the petitioner and M/s Friends Corporate Service Pvt. Ltd. Therefore, there is no relationship of employee and employer between the petitioner and respondent-workman. The Labour Court failed to appreciate the agreement entered with M/s Friends Corporate Service Pvt. Ltd. It was further contended that during pendency of the litigation before the Labour Court, the respondent workman was working and gainfully employed. Therefore, he is not entitled for the back wages awarded by the Labour Court.

5.) Heard learned counsel for the parties.

6.) Perusal of the evidence adduced by the then Executive Engineer, Sh. Viney Grover, it is evident that he has examined agreement

licence has been given for supplying labourers and not Canal Patwaris so as to contend that the respondent-workman was appointed through M/s Friends Corporate Service Pvt. Ltd. Further it is evident from Roznamcha/ Attendance Register Exhibit W-8 and W-2 which reveals that the respondent-workman was working with the petitioner from 30.4.2004 to 30.11.2009. Therefore, it is evident that there is a relationship of employee and employer among the petitioner and the respondent-workman. Hence, there is no infirmity in the Labour Court award. Insofar as grant of 50% back wages is concerned. Even the respondent-workman was admitted to have gainfully employed, the Labour Court has granted only 50% back wages. Therefore, there is no infirmity in the award passed by the Labour Court dated 13.11.2014. No interference is called for.

7.) Petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

November 08, 2016.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.