

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

**446**

**CWP-15081-1998 (O&M)  
Date of decision:07.12.2017**

Sarup Chand Chawla

....Petitioner

Versus

Prescribed Authority/Commissioner under Workman's Compensation,  
Ambala and another

.... Respondents

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

Present: Mr. J.S.Maani, Advocate for the petitioner.

None for the respondents.

**P.B. BAJANTHRI, J. (ORAL)**

Despite giving sufficient time there is no representation on behalf of the respondents. On the last occasion also there was no representation on behalf of the respondents. Hence the matter is heard.

Petitioner has challenged the order dated 17.08.1998 (Annexure P3) passed by the Prescribed Authority/Commissioner under Workman's Compensation, Ambala. Respondent No.2-Nirmal Singh was engaged by the petitioner for construction of his house bearing No.265 situated in Housing Board, Baldev Nagar, Ambala city. During course of engaging his services Nirmal Singh-respondent No.2 suffered electrical shock due to which his right hand got damaged. In view of these facts and

circumstances, Nirmal Singh-respondent No.2 filed an application before the Prescribed Authority under the Workman's Compensation Act and Prescribed Authority while accepting Nirmal Singh's application proceeded to pass award in favour of Nirmal Singh-respondent No.2 while directing the petitioner to deposit a sum of Rs.1,05,895/- as compensation with the Prescribed Authority/court. Petitioner feeling aggrieved by the order dated 17.08.1998 (Annexure P3) presented this petition.

Learned counsel for the petitioner submitted that Nirmal Singh's engagement as Mason is for the purpose of construction of residential building. Therefore under the Workman's compensation Act under the definition of workman, engaging services of Nirmal Singh-respondent No.2 for the construction of residential building do not cover. Such a contention was taken before the authority. Same has not been appreciated while deciding issue No.1. The authority proceeded to hold that no evidence have been produced by the petitioner to prove that Prescribed Authority/court has no jurisdiction. Hence, the present petition in challenging the order passed by the prescribed authority dated 17.08.1998 ( Annexure P3).

Having regard to the nature of the Nirmal Singh's engaging as Mason for the purpose of construction of residential building would not fall under the definition of workman. Supreme Court in the case of ***Om Parkash Batish versus Ranjit @ Ranbir Kaur and others*** reported in 2008(3) RSJ 146 in para 23 and 24 held as under:-

*“23. The workman in the present case was employed for carrying out repair works in a residential house. The same does not, thus, answer the description*

*of a workman as contained in the provisions of the Act.*

24. *Schedule II appended to the said Act to which reference was made by Mr. Dhingra, in our opinion, is not applicable, as it is subject to the provisions of [Section 2\(1\)\(n\)](#) of the Act. If, therefore, the law as it then stood would exclude the applicability of the Act, having regard to the definition of the term "workman" the same cannot be held to include deceased, only because he was working in connection with a building activity.*

*Even otherwise, working in a residential house does not satisfy the requirements of law."*

In view of the definition of workman under the Compensation Act read with the Supreme Court decision impugned order dated 17.08.1998 passed by the Prescribed Authority/Commissioner compensation is liable to be set aside. Accordingly, it is set aside on the ground of jurisdiction.

Accordingly, CWP stands allowed.

**(P.B.BAJANTHRI)**  
**JUDGE**

**07.12.2017**

pooja saini

Whether speaking/reasons  
Whether Reportable:

Yes/No  
Yes/No