

IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16150-2005 (O&M)

Date of decision: 14.11.2017

Food Corporation of India

...Petitioner

V/s.

**Presiding Officer, Central Government
Industrial Tribunal-cum-Labour Court-I,
Chandigarh and another**

...Respondents

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

Present: Mr. K.K. Gupta, Advocate for the petitioner.

Mr. Raj Karan Singh Verka, Advocate
for respondent No. 2.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the award dated 30.03.2005 (Annexure P-3) passed by Labour Court. The petitioner is disputing the services of the respondent-workman to the extent that he was not appointed by the Food Corporation of India and was appointed through contractor. Petitioner failed to produce any material to show that the respondent-workman was appointed through which contractor and the concerned contractor has been examined as witness for the purpose of establishing that workman has been appointed by the contractor for discharging the duties in the FCI Depot, Bhikhiwind, District Amritsar on daily wage basis. The petitioner is disputing the employer and employee relationship. In that event, he should have resorted in challenging the reference made by the Government dated 30/31.08.1999. In the absence of challenge to the reference, petitioner's contention cannot be accepted to the extent that there is no relationship of employer and employee with the

respondent-workman. He has relied on decision of this Court reported in ***1991 (1) SCT 160 M/s. Indographic Art Machinery Company (P) Limited V/s. Presiding Officer, Labour Court-II, Fardiabad etc.,*** to the extent that in absence of relationship of employer and employee, Industrial Tribunal has no jurisdiction and it is beyond reference. Thus, the Labour Court has erred in entertaining the reference.

Per contra, learned counsel for respondent No.2 submits that petitioner has failed to challenge the reference dated 30/31.08.1999. Consequently, the petitioner cannot say that there is no relationship of employer and employee unless and until reference is set aside. Therefore, petitioner has not made out case to interfere with award. More over petitioner has not produced any material to show that respondent was engaged by the contractor and workman services were lent to FCI by the contractor.

Heard learned counsel for the parties.

Challenged to the award dated 30.03.2005 on the ground that there is no employer and employee relationship. Therefore, Labour Court has erred in entertaining the reference and so much so without any evidence. Undisputed facts are that reference dated 30/31.08.1999 is binding on the petitioner as well as on the respondent as long as it is not challenged disturbed. Petitioner's contention that relationship of employer and employee cannot be taken into consideration as per the decision cited by learned counsel for the petitioner. In so far as evidence in respect of respondent discharging duty with Food Corporation of India Depot is concerned, it was for the petitioner to establish before the Labour Court by producing agreement between the contractor and further contractor lending

service of the respondent to discharge the duty in the Food Corporation of India Depot. No material has been placed even in the present petition. Petitioner has not made out the case so as to interfere with award of the Labour Court.

Accordingly, petition is dismissed.

November 14, 2017
Divyanshi

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No