

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

Date of decision: 22.02.2017

CWP No.10098 of 2013

Sama

...Petitioner

Vs.

The Principal, Beant College of Engineering & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. G.S.Bal, Senior Advocate, with
Ms. Manju Sharma, Advocate, for the petitioner(s).

Mr. Kamal Singh Dhillon, Advocate,
for respondent No.1.

RAJIV NARAIN RAINA, J. (ORAL)

This order will dispose of the abovementioned writ petition as well as other connected writ petitions* tabulated at the foot of the order (totalling 9 writ petitions), as common questions of law and fact are involved in them, which can conveniently be decided by a common order.

Heard the respective counsel on the short point involved in this batch of cases.

These petitions have been filed against different similar Awards passed by the Presiding Officer, Industrial Tribunal, Gurdaspur in connected references. The dispute was as to the validity of termination from service. The employer was the Beant College of Engineering & Technology, Gurdaspur.

The management denied relationship of employer-employee between the parties. The Management was able to produce sufficient evidence before the Tribunal for it to conclude that the services of the

petitioner(s) were engaged through a contractor namely M/s Lotus Service, Jalandhar. The Management had hired the contractor to provide man-power for various services in its educational institution such as Malis, Sweepers, Chowkidars etc.

The Tribunal appreciated the evidence on record and reached the conclusion that there was no direct relationship of employment between the disputing parties and, therefore, the liability which may result on reinstatement could not be saddled on the shoulders of the respondents. There was evidence on record to safely conclude that an agreement had been drawn in writing between the contractor and the respondent-College. The process of submitting tenders was followed in the appointment of the labour contractor. The onus was on the workers to establish a relationship of employer – employee which they failed to discharge.

If there was no relationship of employer – employee, then there would not exist an industrial dispute between the parties. The contractor was not impleaded as a party to the litigation when it was necessary. The dispute was raised only against the College. In fact, the reference was made on the mistaken notion that the College was the employer. This would be to the peril of the workmen who raised the dispute against the respondent and did not implead the contractor independently or jointly with the College. Nor raised the dispute against the principal employer and, therefore, the relationship between the contractor and the workers also could not be established on evidence which makes matters worse for the workers with valuable time lost pursuing an elusive reference. The Tribunal held that the workmen had failed to prove on file that they were employed by the respondent – College and, thus, they had no *locus standi* to support and press the reference for relief. The Presiding Officer, Industrial Tribunal,

Gurdaspur in the Award dated 16.04.2012 has rejected the reference and denied relief for good and sufficient reason. The protections in the Industrial Disputes Act, 1947 had no place in the scheme of things since one of the essential jurisdictional facts was not satisfied and the reference itself was misdirected. Therefore, the reference orders of the appropriate Government in this batch of cases are invalidated.

I would find no legal infirmity in the impugned Awards or any error apparent on the face of the record and would dismiss these petitions by leaving the petitioners free to raise the dispute with the labour contractor, which right they possessed in the beginning.

22.02.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No

Sr. No.	Case No.	Parties Name
1.	CWP No.10110 of 2013	Jeewan Kumar Vs. The Principal, Beant College of Engineering & Technology, Gurdaspur & another
2.	CWP No.10118 of 2013	Gulzari Lal Vs. The Principal, Beant College of Engineering & Technology, Gurdaspur & another
3.	CWP No.10119 of 2013	Rajesh Kumar Vs. The Principal, Beant College of Engineering & Technology, Gurdaspur & another
4.	CWP No.10121 of 2013	Som Nath Vs. The Principal, Beant College of Engineering & Technology, Gurdaspur & another
5.	CWP No.10122 of 2013	Jatinder Kumar Vs. The Principal, Beant College of Engineering & Technology, Gurdaspur & another
6.	CWP No.10123 of 2013	Sohan Lal Vs. The Principal, Beant College of Engineering & Technology, Gurdaspur & another
7.	CWP No.10124 of 2013	Rakesh Kumar Vs. The Principal, Beant College of Engineering & Technology, Gurdaspur & another
8.	CWP No.10125 of 2013	Balwinder Singh Vs. The Principal, Beant College of Engineering & Technology, Gurdaspur & another

[RAJIV NARAIN RAINA]
JUDGE