

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17769 of 2016

Date of Decision: 12.11.2018

M/S. HPL Additives Ltd.

... Petitioner

Versus

Bedpal and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ramesh Goyat, Advocate,
for the management.

Mr. Tapan Yadav, Advocate,
and Mr. Surinder Dagar, Advocate,
for the workmen.

RAJIV NARAIN RAINA, J.(Oral)

1. This order will dispose of the above mentioned writ petition as well as other connected writ petitions* tabulated at the foot of the order (totalling 93 cases).

2. The Labour Court-III, Faridabad has decided 47 separate references by a single award dated September 30, 2015 by treating the case of Umed Singh in reference No.122 of 2010 titled *Umed Singh and others v. HPL Additives Limited* as the “pilot” case. The references were made by the appropriate government under Section 10 (1) (c) of the Industrial Disputes Act, 1947 (“1947 Act”) for determination of the disputes between the employer and its aggrieved employees by the Tribunal. The dispute referred was whether the claimant is an employee of M/s HPL Additives or not. In case, it is held in the affirmative then whether termination of service is illegal. If the answer is again in the affirmative then what consequential relief the employee is entitled to. The singular be read in the plural.

3. About half of these petitions have been filed by the

management and the other half by the workers. The management prays that the impugned award be set aside in toto while the workers urge that they are entitled to reinstatement, continuity of service and back wages and the Labour Court erred in granting compensation of only ₹50,000/- in each case in lieu of reinstatement.

4. In this bunch of cases, the claimants were appointed either as Helpers, Operators or Time keepers in the factory run by the Public Limited Company. It is a large industry where there are over 500 workers employed and would fall under the provisions of Chapter V of the 1947, Act.

5. The disputes began in January 2009 when the services of the claimants were terminated. The workers said that it was in violation of Sections 25-F, 25-G & 25-N of the 1947 Act.

6. The management raised a preliminary objection in their written statement denying their existed any direct relationship of employer and employee between the parties. The management asserted that they had engaged certain labourers through contractors who are duly licensed/registered under the Contract Labour (Regulation and Abolition) Act, 1970. The job was duly supervised by the respondents-contractors of their workers. It is noteworthy that no contractor is impleaded in the array of parties to the award. Neither were they produced by the management, when it was their case and not the case of the workers, as they had claimed direct relationship without mentioning the contractor or his name.

7. The Labour Court has not looked into each file and in para.15 of the award concluded its opinion referring only to contractor Popender Singh s/o Sh. Saudan Singh, resident of H.No.642, Sector-17, Faridabad

who was said to be the proprietor of M/s Apex Service & Consultants. Popender Singh appeared as a witness for the workers and deposed that the management used to appoint workmen by itself. He deposed that the record of the workmen is also lying with the management and he used to get only commission on the bills. His statement is Ex.W-6. On the basis of the statement of Popender Singh, the Labour Court has concluded generally that the contract is a sham and bogus transaction and this amounts to an unfair labour practice.

8. On the other hand, learned counsel for the petitioner-management in its petitions has seriously objected that all the references could not have been decided in one sweep without looking into the facts of each case which if had been taken into consideration the conclusions may have been different. He points out to the statement of MW-1, MW-2 and MW-3 in the case of Bedpal i.e. CWP No.17769 of 2016 where the contractor's name is described as M/s G.D. Associates and this vital evidence has not been noticed, dealt with or considered by the Tribunal while generalizing the entire legal proposition on the statement of Popender Singh alone.

9. That apart, no reason has been assigned by the Labour Court as to why reinstatement in service should not be awarded and only back wages is the appropriate relief. Even the assessment of compensation of ₹50,000/- does not bear any discussion as to how the sum was chosen in moulding relief. The Labour Court in its award has relied on judgments which are not even remotely connected with the issue in hand, that is, of status of employment, direct or contract labour. Not even an attempt is made by the

court whether the veil should be lifted and on what evidence. Reliance on judgments blindly without culling out the ratio or addressing worth of proven facts is not sound exercise of jurisdiction by the court below and the same would not serve the ends of justice. I have no doubt in mind that there are serious legal infirmities and errors apparent in the award dated September 30, 2015 which cannot be easily cured by this Court and, therefore, the only option available is to set aside the awards and remand the matters back to the labour court for deciding each reference separately or by grouping cases with identical facts, oral and documentary evidence. The short cut adopted by the labour court has not worked but only added to it.

10. In view of the remand, no further orders are required to be passed in the writ petitions filed by the workers and the management. All the pleas are left open and will be available to the parties in the remand proceedings. No opinion is expressed on merits so that parties are not prejudiced.

11. In remand proceedings neither party will have right to adduce fresh evidence. The fresh awards will be made on materials already on record and after appreciating evidence and excluding judgments that have no bearing on the dispute/s. In short, the Labour Court will hear arguments advanced by the parties and make up its mind without being influenced by the impugned awards or anything said in this order to maintain the independence, impartiality and probity of the Labour Court.

12. Parties are directed to appear before the Labour Court on December 10, 2018.

13. Lower Court Record be returned forthwith.

14. It will be the endeavour of the Labour Court to try and dispose of the cases as soon as practicable by ensuring that no adjournment is granted unless it is absolutely necessary and justified in the interest of justice that too by an order in writing the reason of adjournment.

12.11.2018
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(RAJIV NARAIN RAINA)
JUDGE

<i>Sr. No.</i>	<i>Case No.</i>	<i>Parties Name</i>
1	CWP No.17770 of 2016	M/S HPL ADDITIVES LTD V/S BIR SINGH & ANR
2	CWP No.17771 of 2016	M/S HPL ADDITIVES LTD V/S SHIV RAJ & ANR
3	CWP No.17772 of 2016	M/S HPL ADDITIVES LTD V/S UMED SINGH & ANR
4	CWP No.17773 of 2016	M/S HPL ADDITIVES LTD V/S VISHRAM & ANR
5	CWP No.17774 of 2016	M/S HPL ADDITIVES LTD V/S JAGDEV & ANR
6	CWP No. 17775 of 2016	M/S HPL ADDITIVES LTD V/S NAWAL SINGH & ANR
7	CWP No.17776 of 2016	M/S HPL ADDITIVES LTD V/S OMPAL & ANR
8	CWP No.17777 of 2016	M/S HPL ADDITIVES LTD V/S CHANCHAL & ANR
9	CWP No. 17778 of 2016	M/S HPL ADDITIVES LTD V/S SUBHASH & ANR
10	CWP No.17779 of 2016	M/S HPL ADDITIVES LTD V/S AJAY KUMAR & ANR
11	CWP No.17780 of 2016	M/S HPL ADDITIVES LTD V/S SUNIL KUMAR & ANR
12	CWP No. 17781 of 2016	M/S HPL ADDITIVES LTD V/S SITARAM & ANR
13	CWP No. 17782 of 2016	M/S HPL ADDITIVES LTD V/S UMESH CHAND & ANR
14	CWP No. 17783 of 2016	M/S HPL ADDITIVES LTD V/S CHANDAN SINGH & ANR
15	CWP No. 17784 of 2016	M/S HPL ADDITIVES LTD V/S KASHIRAM & ANR

<i>Sr. No.</i>	<i>Case No.</i>	<i>Parties Name</i>
16	CWP No. 17785 of 2016	M/S HPL ADDITIVES LTD V/S PHOOL SINGH & ANR
17	CWP No. 17786 of 2016	M/S HPL ADDITIVES LTD V/S ASHOK & ANR
18	CWP No. 17787 of 2016	M/S HPL ADDITIVES LTD V/S KULDEEP & ANR
19	CWP No. 17788 of 2016	M/S HPL ADDITIVES LTD V/S AJAY KUMAR & ANR
20	CWP No. 17789 of 2016	M/S HPL ADDITIVES LTD V/S DEVA & ANR
21	CWP No. 17790 of 2016	M/S HPL ADDITIVES LTD V/S SATISH & ANR
22	CWP No. 17791 of 2016	M/S HPL ADDITIVES LTD V/S RAVI KUMAR & ANR
23	CWP No. 17792 of 2016	M/S HPL ADDITIVES LTD V/S MUKESH & ANR
24	CWP No. 17793 of 2016	M/S HPL ADDITIVES LTD V/S SATBIR & ANR
25	CWP No. 17794 of 2016	M/S HPL ADDITIVES LTD V/S SURENDER & ANR
26	CWP No. 17795 of 2016	M/S HPL ADDITIVES LTD V/S SANJAY TEWATIA & ANR
27	CWP No. 17796 of 2016	M/S HPL ADDITIVES LTD V/S JAY BAHAGWAN & ANR
28	CWP No. 17797 of 2016	M/S HPL ADDITIVES LTD V/S SOHAN PAL & ANR
29	CWP No. 17798 of 2016	M/S HPL ADDITIVES LTD V/S GULSHAN & ANR
30	CWP No. 17799 of 2016	M/S HPL ADDITIVES LTD V/S SUBHASH & ANR
31	CWP No. 17811 of 2016	M/S HPL ADDITIVES LTD V/S RAJ KUMAR & ANR
32	CWP No. 17812 of 2016	M/S HPL ADDITIVES LTD V/S UDAIVEER & ANR
33	CWP No. 17813 of 2016	M/S HPL ADDITIVES LTD V/S TEKCHAND & ANR
34	CWP No. 17814 of 2016	M/S HPL ADDITIVES LTD V/S SUKHPAL & ANR
35	CWP No. 17815 of 2016	M/S HPL ADDITIVES LTD V/S BABULAL & ANR
36	CWP No. 17816 of 2016	M/S HPL ADDITIVES LTD V/S JAL SINGH & ANR
37	CWP No. 17817 of 2016	M/S HPL ADDITIVES LTD V/S RAJENDER & ANR

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38	CWP No. 17818 of 2016	M/S HPL ADDITIVES LTD V/S PARTAP & ANR
39	CWP No. 17819 of 2016	M/S HPL ADDITIVES LTD V/S LALCHAND & ANR
40	CWP No. 17820 of 2016	M/S HPL ADDITIVES LTD V/S BALBIR & ANR
41	CWP No. 17821 of 2016	M/S HPL ADDITIVES LTD V/S SURESH & ANR
42	CWP No. 17822 of 2016	M/S HPL ADDITIVES LTD V/S HARI SINGH & ANR
43	CWP No. 10351 of 2016(O&M)	VISHRAM V/S M/S H.P.L ADDITIVES LTD. & ANR
44	CWP No. 10352 of 2016 (O&M)	BALBIR V/S M/S H.P.L ADDITIVES LTD. & ANR
45	CWP No. 10353 of 2016 (O&M)	DEVA V/S M/S H.P.L ADDITIVES LTD. & ANR
46	CWP No. 10354 of 2016 (O&M)	PHOOL SINGH V/S H.P.L ADDITIVES LTD. & ANR
47	CWP No. 10355 of 2016 (O&M)	KARTAR V/S M/S H.P.L ADDITIVES LTD. & ANR
48	CWP No. 10356 of 2016	BEER SINGH V/S M/S H.P.L ADDITIVES LTD. & ANR
49	CWP No. 10357 of 2016 (O&M)	RAJENDER V/S M/S H.P.L ADDITIVES LTD. & ANR
50	CWP No. 10363 of 2016	NAWAL SINGH V/S M/S H.P.L ADDITIVES LTD. & ANR
51	CWP No. 10364 of 2016 (O&M)	CHANDAN SINGH V/S M/S H.P.L ADDITIVES LTD. & ANR
52	CWP No. 10365 of 2016	SHIV RAJ V/S M/S H.P.L ADDITIVES LTD. & ANR
53	CWP No. 10366 of 2016 (O&M)	JAL SINGH V/S M/S H.P.L ADDITIVES LTD. & ANR
54	CWP No. 10367 of 2016 (O&M)	BED PAL V/S H.P.L ADDITIVES LTD. & ANR
55	CWP No. 10396 of 2016 (O&M)	JAI BHAGWAN V/S M/S H.P.L ADDITIVES LTD. & ANR
56	CWP No. 10397 of 2016 (O&M)	ASHOK V/S M/S H.P.L ADDITIVES LTD. & ANR
57	CWP No. 10398 of 2016 (O&M)	SITA RAM V/S M/S H.P.L ADDITIVES LTD. & ANR
58	CWP No. 10399 of 2016 (O&M)	KASHI NATH V/S M/S H.P.L ADDITIVES LTD. & ANR
59	CWP No. 10414 of 2016 (O&M)	SOHAN PAL V/S M/S H.P.L ADDITIVES LTD. & ANR

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60	CWP No. 10415 of 2016 (O&M)	BABU LAL V/S M/S H.P.L ADDITIVES LTD. & ANR
61	CWP No. 10416 of 2016 (O&M)	KULDEEP V/S M/S H.P.L ADDITIVES LTD. & ANR
62	CWP No. 18463 of 2016	M/S HPL ADDITIVES LTD. V/S KARTAR & ANR
63	CWP No. 18464 of 2016	M/S HPL ADDITIVES LTD. V/S BHARAT SINGH & ANR
64	CWP No. 18465 of 2016	M/S HPL ADDITIVES LTD. V/S KANHIYA LAL & ANR
65	CWP No. 18466 of 2016	M/S HPL ADDITIVES LTD. V/S SHIV NARESH & ANR
66	CWP No. 20707 of 2016	RAVI KUMAR V/S M/S H.P.L. ADDITIVES LTD. & ANR
67	CWP No. 20710 of 2016	LAL CHAND V/S M/S H.P.L. ADDITIVES LTD. & ANR
68	CWP No. 20711 of 2016	SURENDER V/S M/S H.P.L. ADDITIVES LTD. & ANR
69	CWP No. 20738 of 2016	SHIV NARESH V/S M/S H.P.L. ADDITIVES LTD. & ANR
70	CWP No. 20739 of 2016	GULSHAN V/S M/S H.P.L. ADDITIVES LTD. & ANR
71	CWP No. 20740 of 2016	SANJAY TEWATIA V/S M/S H.P.L. ADDITIVES LTD. & ANR
72	CWP No. 20741 of 2016	SUBHASH V/S M/S H.P.L. ADDITIVES LTD. & ANR
73	CWP No. 20742 of 2016	SATBIR V/S M/S H.P.L. ADDITIVES LTD. & ANR
74	CWP No. 20745 of 2016	MUKESH V/S M/S H.P.L. ADDITIVES LTD. & ANR
75	CWP No. 20748 of 2016	AJAY KUMAR V/S M/S H.P.L. ADDITIVES LTD. & ANR
76	CWP No. 20760 of 2016	RAJ KUMAR V/S M/S H.P.L. ADDITIVES LTD. & ANR
77	CWP No. 20761 of 2016	SATISH V/S M/S H.P.L. ADDITIVES LTD. & ANR
78	CWP No. 20762 of 2016	SUNIL KUMAR V/S M/S H.P.L. ADDITIVES LTD. & ANR
79	CWP No. 20765 of 2016	BHARAT SINGH V/S M/S H.P.L. ADDITIVES LTD. & ANR
80	CWP No. 14430 of 2017	HARI SINGH V/S M/S H.P.L. ADDITIVES LTD. & ANR

