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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

-. -

CWP-14802-2022  
Date of decision: 14.07.2022

*Geju Ram*

*..... Petitioner*

*Versus*

*Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar and  
another*

*..... Respondents*

**Coram: Hon'ble Mr. Justice Rajbir Sehrawat**

**Present: Mr. Harshvardhan Ranga, Advocate for the petitioner**

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Rajbir Sehrawat, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India, praying for issuance of a writ in the nature of certiorari for quashing impugned award dated 05.12.2019, passed by the learned Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar (Annexure P-2), whereby the claim of the petitioner under the Industrial Disputes Act, 1947 has been declined. Further prayer has been made for issuance of a writ in the nature of mandamus, directing the respondent – management to re-instate the petitioner with full back wages along with interest from the date of his termination.

The facts, in brief, as pleaded in the petition are that the

petitioner served with the respondent-bank as Peon with effect from 16.10.2008 till 30.04.2015. His service was terminated by the respondent-Bank without issuance of any notice and without paying any retrenchment compensation. The petitioner raised an industrial dispute; which was referred to the Labour Court for adjudication. However, the Labour Court answered the same against the petitioner-workman. Hence, the present writ petition.

Arguing the case, counsel for the petitioner has submitted that undisputedly, the petitioner had worked with the respondent-Bank. The Bank had even issued the posting orders of the petitioner. To establish the employer and employee relationship between the respondent-Bank and the petitioner, counsel for the petitioner has contended that there has been direct supervision and control of the respondent-Bank over the petitioner-workman. Hence, the Labour Court has wrongly recorded the finding that the employer and employee relationship between the respondent-bank and the petitioner-workman was not established. Therefore, the award deserves to be set aside and the petitioner-workman deserves to be reinstated into service with continuity of service and full back wages.

Having heard counsel for the petitioner and having perused the case file, this Court does not find any substance in the arguments raised by counsel for the petitioner. It is not even in dispute that the petitioner was engaged through service provider agency i.e. M/s Narwal Super Security Service for the first instance upto October 2012; and thereafter, the service provider of the Bank was changed and another agency i.e. M/s Kathuria Man-Power Security service had started providing the manpower to the

respondent-Bank. The agreement to this effect has duly been placed on record. Moreover, the record shows that the last tenure of the petitioner with the respondent-Bank was as provided through M/s Kathuria Manpower Security Service. The record also shows that the petitioner was never appointed by the respondent-Bank, nor was he ever recognized by the Bank as their own employee.

Although, counsel for the petitioner has submitted that the respondent Bank had issued posting orders to the petitioner, however, that would not create any employer-employee relationship between the respondent- Bank and the petitioner. Once the service provider has provided the petitioner as manpower to the respondent-Bank, obviously, it is for the respondent-Bank to depute the petitioner somewhere in the Bank so as to take work from him. But this would not create any relationship of employer-employee. Moreover, the petitioner has not led any evidence on record to show that he was ever engaged by the respondent-Bank directly or that the petitioner was ever paid any salary by the respondent-Bank.

In view of the above, this Court does not find any illegality and perversity in the findings recorded by the Labour Court.

Resultantly, the present writ petition is dismissed.

(Rajbir Sehrawat)  
Judge

July 14, 2022  
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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |