

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. CWP No. 23928 of 2016
Date of decision : 18.4.2022

RajuPetitioner

Vs.

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

2. CWP No. 16966 of 2016 (O & M)

MahavirPetitioner

Vs.

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

3. CWP No. 16967 of 2016 (O & M)

Ajmer SinghPetitioner

Vs.

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

4. CWP No. 16968 of 2016 (O & M)

Dhyan ChandPetitioner

Vs.

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

5. CWP No. 16969 of 2016 (O & M)

RajeshPetitioner

Vs.

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

6. CWP No. 17012 of 2016 (O & M)

SheelaPetitioner

Vs.

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

.....Respondents

7. CWP No. 17013 of 2016 (O & M)

Kali RamPetitioner

Vs.

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

.....Respondents

8. CWP No. 17015 of 2016 (O & M)

KokaPetitioner

Vs.

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

.....Respondents

9. CWP No. 17047 of 2016 (O & M)

SubhashPetitioner

Vs.

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

.....Respondents

10. CWP No. 17048 of 2016 (O & M)

HarkeshPetitioner

Vs.

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

.....Respondents

11. CWP No. 17049 of 2016 (O & M)

SatbirPetitioner

Vs.

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

.....Respondents

12. CWP No. 23783 of 2016

Hari Kant

.....Petitioner

Vs.

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

.....Respondents

13. CWP No. 23801 of 2016

Kashmira

.....Petitioner

Vs.

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

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Sunil Kumar Bhardwaj, Advocate, for the petitioner(s)

Mr. Umesh Narang, Advocate, for respondent(s) No.2

Rajbir Sehrawat, J. (Oral)

This order shall dispose of the above mentioned 13 petitions filed by the different petitioners but against the common award. The facts are being taken from CWP No. 23928 of 2016.

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of certiorari for quashing the impugned award dated 4.5.2016 (Anexure P-5), passed by the Labour Court, Chandigarh, while closing the evidence of the petitioner, without granting any opportunity for putting himself for cross-examination; and further without giving any opportunity to cross-examine the management witness and passing the

impugned award on the same day; and ignoring the relationship as per list Annexure P-7. It is further prayed that respondent No.1 be directed to grant an opportunity to the petitioner/workman to present himself for cross-examination and also to grant an opportunity to the petitioner to cross-examine the management witnesses along with further direction to respondent No.1 to decide the reference on merits, after hearing the arguments of both the parties.

The petitioner/workman asserted that he worked for more than 10 years, when ultimately, his services were terminated w.e.f. 26.1.2011. To get rid of the service of the petitioner, the management had even got proceedings under Section 107/151 Cr.P.C. initiated against the workmen, including the petitioner. The respondent/corporation had not complied with the provisions of Section 25F of the Industrial Disputes Act, 1947 (in short 'the Act') at the time of retrenchment of the petitioner. Pleadings these facts, dispute was raised by the petitioner. The same was referred to the Labour Court. However, the reference has been answered against the petitioner. Hence, the present petitions.

Arguing the case, counsel for the petitioner has submitted that since the petitioner had completed 240 days, therefore, the respondent/corporation should have complied with the provisions of Section 25F of the Act and should have made payment of compensation. Since the provisions of the Industrial Disputes Act were not complied with, therefore, the petitioner was entitled to reinstatement with full back-wages. Counsel has further submitted that the Labour Court has gone wrong in law in not permitting the petitioner even to cross-examine all the witnesses produced by the management. Hence, the award is totally illegal.

On the other hand, counsel for the respondent/corporation has submitted that the petitioner had never been an employee of the respondent/corporation. There is no record with the respondent/corporation qua the service of the petitioner. Otherwise also, the work of loading and un-loading the food-grains was out-sourced to the contractor. Hence, the respondent/corporation does not have any concern with the service conditions of the labour engaged in those operations; as such. Counsel has further submitted that the petitioner has failed to lead any evidence to show that he was ever engaged by the respondent/corporation or that he ever worked under the respondent/corporation.

Having heard counsel for the parties, this Court finds substance in the arguments of counsel for the respondents. Although the petitioner had submitted before the Labour Court his affidavit in support of his claim in deposition in affirmation, however, he did not appear to face the cross-examination. Hence, the Labour Court has rightly ordered that the affidavit shall not be read in evidence. On the other hand, the evidence was led by the management and the opportunity was granted to the petitioner to cross-examine the witness of the management, however, nobody had turned-up to cross-examine their witness. Therefore, the evidence of the respondent/corporation has to be taken on its face value as un-rebutted evidence. As per the said evidence, the petitioner was never engaged by the respondent/corporation. On the contrary, the work of transportation of the grain was given to M/s Sahab Transport Company, Kurukshetra. Moreover, the petitioner/workman himself has admitted that he was working with the contractor.

In view of these fact, this Court does not find any illegality in the

findings recorded by the Labour Court that there does not exists any employer employee relationship between the respondent/corporation and the petitioner/workman. Since the respondent was not even employer of the petitioner, therefore, there was no question of respondent/corporation complying with any provisions of the Act qua the alleged termination of service of the petitioner. Hence, the present petition is liable to be dismissed.

In view of the above, findings no merit in the present petitions, the same are dismissed.

All the pending applications stand disposed of accordingly.

(RAJBIR SEHRAWAT)
JUDGE

18.4.2022
Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No