

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

Date of decision : 31.05.2023

CWP-26231-2017 (O&M)

Jitender Singh and others Petitioners
Versus

State of Punjab and others ...Respondents

CWP-32275-2018

Harmesh Singh and others Petitioners
Versus

State of Punjab and others ...Respondents

CWP-10145-2019

Ashish Goyal Petitioner
Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Krishan Singh Dadwal, Advocate for the petitioners
in CWP-26231-2017.

Mr. Dinesh Kumar, Advocate for
Mr. M.K. Singla, Advocate for the petitioners
in CWP-32275-2018.

Mr. Parvesh K. Saini, Advocate for the petitioner
in CWP-10145-2019.

Mr. Inderpreet S. Kang, Asstt. Advocate General, Punjab

Mr. B.S. Patwalia, Advocate and
Mr. Akshit Pathania, Advocate
for the respondents/Markfed.

PANKAJ JAIN, J. (ORAL)

Counsels for the parties are *ad idem* that the petitioners are all
out-sourced employees and thus the issue in hand would be squarely
covered by the judgment passed by this Court in **CWP No.10016 of 2018**

titled as **Sukhwinder Singh and others vs. State of Punjab and others**

wherein it has been held as under :-

While issuing notice of motion this Court vide order dated 12.11.2018 observed as under :-

“The restricted claim urged is for protection of the services of the petitioners till the posts are filled up on regular basis as per the rules, namely, The Co-operative Milk Producers Union Employees Service (Non-Common Cadre) Rules, 1996 (in short “The Rules, 1996”), since the posts are alleged to be covered under “The Rules, 1996” and the petitioners claim to be fulfilling the laid down prescribed qualifications.

Notice of motion for 13.03.2019.

In the meanwhile, the services of the petitioners shall not be terminated without seeking approval from this Court.”

Learned counsel for the petitioners has not been able to make out a case to maintain the writ petition as from the record, he is unable to point out that the petitioners were not appointed through outsourcing agency. In the light of admission made in the pleadings raised in the writ petition itself, *the question is as to whether law laid down by the Apex Court in **G.M.ONGC, Shilchar and R.K.Panda 's case supra** can be read to the benefit of the petitioner or not?* In *G.M.ONGC, Shilchar's case supra* the matter prior to coming before the Constitutional Courts was thrashed before the Labour Tribunal where the parties have raised their pleadings and led evidence. Specific case raised by the petitioners in such labour dispute was that the employees though termed as contractual were in fact employees of the principal employer and the Labour Court had answered such reference at the behest of the Labour Union after considering the pleadings and evidence on record. Likewise in the case of

R.K.Panda 's case supra the workman pleaded that he having been employed in a work of perennial nature ought not to have been treated as contractual employee as the same would be in the teeth of provisions of Contract Labour (Regulation and Abolition) Act, 1970 (for short “1970 Act”). It was in these circumstances that the Apex Court held that keeping in view the fact that the objective of the Contract Labour Act itself recognized that the workers working in the job of perennial nature ought to be absorbed, the petitioner therein were entitled for such relief.

The present case when gazed from the prism of the aforesaid settled law the pleadings of the petitioners themselves raised in the writ petition disentitle them for such relief. The petitioners have nowhere claimed protection of the provisions of the 1970 Act. Apart from that, there is no such averment that the petitioners have approached any Tribunal or Labour Court wherein their right of being employees of principal employer has been adjudicated. Resultantly, this Court finds that in view of the admission made in the writ petition itself, there is no relationship of employer-employee between the petitioners and respondents No.4 & 5. Therefore, no relief as claimed in the present writ petition can be entertained. So far as the issue with respect to ***Sabha Shanker Dube Vs. Divisional Forest Officer & ors. (2019) 12 SCC 297 and State of Punjab & ors. Vs. Jagjit Singh & ors., (2017) 1 SCC 148*** is concerned, this Court has already held that there is no employer-employee relationship between the parties and thus no such relief can be granted against respondent No.5. Petition stands dismissed. Since this Court has purely gone on the basis of pleadings raised by the parties, the observations made hereinabove will not come in the way of the petitioners in case they opt to raise industrial dispute or opt to avail any alternate remedy with an intent to establish their relationship with the respondents.

In view of the above, present writ petitions are dismissed with liberty as granted in CWP No.10016 of 2018 *ibid*.

Pending application, if any, shall also stand disposed off.

A copy of this order be kept on the files of other connected cases.

May 31, 2023
Dpr

(PANKAJ JAIN)
JUDGE

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