

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

217(I) **CR-2634-2021**
Date of Decision :05.01.2023

Manju **...Petitioner**

Versus

The Divisional Forest Officer, Sonapat **....Respondent**

217-(2) **CR-2637-2021**

Mandeep **...Petitioner**

Versus

The Divisional Forest Officer, Sonapat **....Respondent**

217(3) **CR-2638-2021**

Birmati **...Petitioner**

Versus

The Divisional Forest Officer, Sonapat **....Respondent**

217(4) **CR-2640-2021**

Sunil **...Petitioner**

Versus

The Divisional Forest Officer, Sonapat

....Respondent

217(5)

CR-2641-2021

Manoj

...Petitioner

Versus

The Divisional Forest Officer, Sonapat

....Respondent

217(6)

CR-2643-2021

Rambir

...Petitioner

Versus

The Divisional Forest Officer, Sonapat

....Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ramesh Goyat, Advocate for the petitioner(s).

Ms. Vibha Tiwari, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

By this common order, above mentioned six revision petitions are being disposed of as all the revision petitions involve same question of law and similar facts.

Prayer in the present revision petitions is for setting aside the order dated 25.08.2021 (Annexure P-4) passed by the Labour Court, Panipat directing the respondents to produce the service record of the petitioners for

a period of 12 months prior to the date of alleged termination of the petitioners.

The grievance of the petitioners is that they were working with the respondent-department since long and as the petitioners have also raised the grievance with regard to the first come last go before the Labour Court qua termination of their services, the respondents were under an obligation to produce the entire service record as being alleged in the claim petition so that from the said record, it can be ascertained whether anybody appointed after the petitioners is still continuing in service or not so as to violate the provisions of Industrial Dispute Act, 1947.

After notice of motion, the respondents have appeared and have taken preliminary objection before the Labour Court that the petitioners are not their employees as the services being performed by the petitioners were outsourced by the respondent-department through Contractor and it was the Contractor, who might have employed the petitioners and there is no question of master and servant relationship between the petitioners and respondent-department hence, question of terminating the services of the petitioners does not arise. Further objection which was being taken by the respondent-department is that they have not maintained record of the outsourced employees as the same was the duty of the contractor who had supplied the workforce.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Even if, a particular service has been outsourced by the respondent-department through contractor, but the said employees were performing their duties on behalf of the contractor with the respondent-

department. The fact whether the petitioners were employees of the respondent-department or contractor will be decided by the Labour Court on the basis of the complete evidence but the only direction which is being sought by the petitioners is duration of their service rendered by them with the respondent-department. Whether the same was on behalf of the contractor or otherwise is not being claimed in the application and only the record of the services rendered by the petitioners was requested to be summoned so as to see whether there was any violation of Sections 25G and 25H of the Industrial Dispute Act, 1947.

Keeping in view the above, the respondents are directed to submit the record which they have even in respect of the contractors with a clear indication that during a particular period, a particular agency was outsourced agency to supply the labour and in case they have record of the employees working through outsourced agency, the same be also furnished starting from the year 2011 onwards till the date services of the petitioners are alleged to have been dispensed with. It is made clear that mere furnishing of a record does not assume the answer that the petitioners are the employees of the respondent-department or the contractor concerned as the said fact will be ascertained by the Labour Court on the basis of the complete evidence, which will come on record.

Keeping in view the above, order dated 25.08.2021 (Annexure P-4) passed by the Labour Court, Panipat is modified to the extent, as stated earlier, that respondent-department will submit record of the employees working with them in the cadre in which the petitioners are claiming to have worked starting from the year 2011 onwards till the year 2017 alongwith names of the contractors in case the labour was outsourced and in case

record of the employees, who were also working under the outsourced agency is available with them, the same be also furnished for the perusal and consideration of the Labour Court.

All the civil revision petitions stand allowed in above terms.

A photocopy of this order be placed on the files of the connected cases.

January 05, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No