

2024:PHHC:009329-DB



**115+116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. LPA No. 1740 of 2024(O&M)

Vs.

2. LPA No. 1743 of 2024(O&M)

Vs.

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL**

1. With the consent of the learned counsel representing the appellants, two connected Letters Patent appeals filed against a common judgment passed by the learned Single Judge involving identical issues shall stand disposed of by this common order.

2. This Bench has heard the leaned counsel representing the appellants at length and with his able assistance perused the paper-book.



3. The Management calls in question the correctness of Industrial Tribunal-cum-Labour Court's Award ordering reinstatement of the workmen with continuity alongwith 50% of backwages as last drawn from the date of termination of service till reinstatement, which has been upheld in the writ petition.

4. As per findings arrived at by the learned Single Judge as well as the Tribunal, the following reasons have been recorded:-

1. The workmen were employed in the year 2008 directly by the appellant-Management.
2. For the first time, outsourcing agency, namely, M/s Lokesh Security & Detective Agency was engaged to provide manpower on 21.08.2009. However, no notice was given to the workmen before starting to pay them through an outsourcing agency.
3. Admittedly, the workmen continued to work under the overall supervision of the Management.
4. The contract of outsourcing agency, namely, M/s Lokesh Security & Detective Agency was terminated on 08.04.2011, whereas, new agency M/s Oscar Security & Fire Services was engaged from 04.04.2012 till 03.04.2013. Between 09.04.2011 to 03.04.2012, the workmen worked directly under the Management.

5. Many outsourcing agencies were given contracts, namely, M/s



Lokesh Security & Detective Agency and M/s Oscar Security & Fire Services and M/s SIS India Limited, M/s Orion Security Solutions Private Limited. However, the workmen continued to work during all this while. The workmen were not given any notice. The Management also failed to produce the relevant record which was in its possession. Hence, adverse inference was drawn. It has come on record that the workmen worked for continuously 10 years.

6. Learned counsel representing the appellants submits that the Management does not have regular work as the workmen are required for guarding food grains stock as and when available. He submits that now the Management has stopped storing food grains. Hence, the requirement of employing workmen has come to an end.

7. This Court has considered the submissions made by the learned counsel representing the appellants.

8. The Labour Court has found that the services of workmen were terminated in violation of provisions of Section 25 (f) of the Industrial Disputes Act, 1947. It has also been found that the workmen being illiterate had no knowledge and they continued to work under the direct supervision of the Management.

9. Moreover, before paying the workmen through outsourcing agency, no notice was given to the workmen. Such finding of fact is not amenable to interference unless the attention of the Court is drawn to any perversity or manifest illegality.

10. Upon appreciation of evidence, findings of fact have been recorded by the Labour Court, which have been upheld by the learned Single

Judge.

11. Learned counsel representing the appellant has failed to draw the attention of the Court towards manifest error or illegality going to the root of the matter. Even if, now the Management has stopped storing food grains still dispensing with the services of workmen without following the procedure prescribed by law is not appropriate. The termination of services of workmen in violation of provisions of Section 25 (f) of the Industrial Disputes Act, 1947 has correctly been declared illegal.

12. Keeping in view the aforesaid facts, this Bench does find it appropriate to interfere.

13. Accordingly, both the Letters Patent appeals stand dismissed.

14. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

01.08.2024
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No