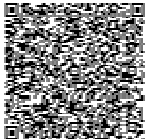


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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

217 (14 cases)

CWP-243-2015 (O&M)
Date of Decision : 01.10.2024

KAMLESH

.... PETITIONER

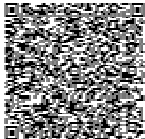
V/S

THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM
LABOUR COURT, PANIPAT AND ANR

.... RESPONDENTS

Sr. No.	Case No. (O&M)	Title of case
1	CWP-25934-2014	RANJEET SINGH V/S THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, PANIPAT AND ANR
2	CWP-10271-2016	N.C. COLLEGE OF ENGINEERING V/S RAKESH KUMAR & ANR
3.	CWP-1644-2015	NARENDER KUMAR V/S THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, PANIPAT AND ANR
4.	CWP-2029-2015	DALBIR V/S THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, PANIPAT AND ANR
5.	CWP-266-2015	MUKESH KUMAR V/S THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, PANIPAT AND ANR

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6	CWP-290-2015	KRISHAN KUMAR V/S THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANIPAT AND ANR
7.	CWP-22463-2014	N.C. COLLEGE OF ENGINEERING V/S SOM DUTT AND ANR
8.	CWP-25635-2014	N.C. COLLEGE OF ENGINEERING V/S JAGMINDER SINGH AND ANR
9.	CWP-25636-2014	N.C. COLLEGE OF ENGINEERING V/S INDER RAM AND ANR
10.	CWP-25692-2014	N.C. COLLEGE OF ENGINEERING V/S KRISHAN KUMAR AND ANOTHER
11.	CWP-25748-2014	N.C. COLLEGE OF ENGINEERING V/S MADAN SINGH AND ANOTHER
12.	CWP-25749-2014	N.C. COLLEGE OF ENGINEERING V/S VINOD KUMAR AND ANOTHER
13.	CWP-313-2015	ANIL KUMAR V/S THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL- CUM LABOUR COURT, PANIPAT AND ANR

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Ms. Abha Rathore, Advocate
for the petitioner in CWP-25934-2014, CWP-2029-2015,
CWP-1644-2015, CWP-243-2015, CWP-266-2015, CWP-
290-2015, CWP-313-2015 and
for respondent No.1 in CWP-10271-2016, CWP-22463-
2014, CWP-25635-2014, CWP-25636-2014, CWP-25692-
2014, CWP-25748-2014 & CWP-25749-2014.

Mr. Ashwani Talwar, Advocate and
Mr. Ishan Vashisht, Advocate
for the petitioner in CWP-10271-2016, CWP-22463-2014,
CWP-25635-2014, CWP-25636-2014, CWP-25692-2014,
CWP-25748-2014, CWP-25749-2014 and

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for respondent No.2 in CWP-25934-2014, CWP-2029-2015, CWP-1644-2015, CWP-243-2015, CWP-266-2015, CWP-290-2015, CWP-313-2015.

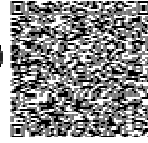
JAGMOHAN BANSAL, J. (Oral)

1. By this common order, the above said petitions are hereby adjudicated as issues involved and prayer sought in all the petitions are common. For the sake of convenience and with the consent of parties, the facts are borrowed from CWP-243-2015.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of award dated 24.07.2014 (Annexure P-11) whereby Labour Court has answered the reference against her.

3. The respondent was an engineering college known as N. C. College of Engineering which at present is lying closed. The petitioner on 13.09.2000 was appointed on the post of Lab Attendant. She worked till 14.02.2005. As per petitioner, the respondent terminated her service. She lodged a complaint with Deputy Commissioner and the matter was referred to Labour-cum-Conciliation Officer. The demand notice was served by petitioner upon respondent who filed response to said notice. The petitioner in the demand notice as well as in the proceedings before authorities claimed that she is employee of respondent-college whereas since beginning stand of respondent-college was that she is an employee of contractor namely M/s Shiva Industrial Services. The matter reached

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to Labour Court which recorded findings against the workmen. The petitioner and other workers filed writ petitions before this Court and the matter came to be remanded vide judgment dated 20.02.2014 CWP No.5875 of 2012. The Labour Court re-examined documents/evidence led by both sides and came to a conclusion that the petitioner was not workman of respondent-College whereas she was working through a contractor. It is apt to notice here that in case of 07 workers, the Labour Court recorded findings in favour of management whereas in case of 07 other workers findings were recorded against the management. In one set of petitions, the Labour Court held that workers were engaged through contractors, thus, principal employer is not liable to comply with provisions of Industrial Disputes Act, 1947 (for short 'ID Act') whereas in case of another set of workers, the Labour Court held that contract between the principal employer and contractor was sham as well as camouflage, thus, workers were actually employees of the principal employer.

4. Counsel for the petitioner is vehemently pleading that the petitioner was employee of respondent-College and any contract between contractor and management was a sham transaction. It was a camouflage and Court should ignore such a contract, if any, executed between the parties.

5. Per contra, Mr. Ashwani Talwar submits that provident fund of the employee was deposited by a contractor who participated in the proceedings before Labour Court and categorically deposed that since

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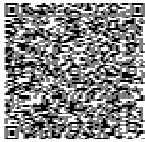
May' 2004, the petitioner is its employee. The provident fund department has also confirmed that the petitioner was employee of the contractor. There may be violation of provisions of The Contract Labour (Regulation and Abolition) Act, 1970 (for short '1970 Act'), however, violation of said Act cannot invite consequences contemplated under ID Act. The 1970 Act is a complete Code and consequences for violation are provided in the said Act. For violation of provisions of 1970 Act, the petitioner cannot be made entitled to protection guaranteed by Sections 25B and 25F of ID Act.

6. The findings recorded by Labour Court in case of one set of workers is entirely contrary to another set of workers. In case of 07 workmen, the Labour Court has accepted contract executed between contractor and management whereas contract executed between the parties has been ignored in the case of remaining workmen. The college is lying closed, thus, there is no possibility of reinstatement of workmen. They had certainly worked for quite sometime with management. Their initial appointment was by management and at a later point of time, they were shifted to contractor. They cannot be left high and dry and deserve some amount of compensation.

7. On being asked, counsel for the parties submitted that they leave to this Court to decide quantum of compensation.

8. Considering the length of service; the fact that college is lying closed; the petitioners were initially appointed by management and thereafter shifted to contractor and last drawn salary, this Court finds it

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appropriate to direct the respondent-management to pay a lump sum compensation of Rs.3 lakhs to each workman within two months from today failing which it would be liable to pay interest @ 12% per annum on the expiry of said period.

9. Disposed of in above terms.
10. Pending miscellaneous application (s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

01.10.2024
anju

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No