



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(229)

CWP No. 1933 of 1998 (O&M)

Date of Decision : 05.03.2025

Mange Ram

...Petitioner

Versus

Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat and
others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jaivir Yadav, Senior Advocate with
Mr. Aman Gautam, Advocate for the petitioner.

Mr. Pardeep Singh Poonia, Advocate with
Mr. Mukul Malik, Advocate,
Mr. Pulkit Dhanda, Advocate and
Mr. Dharampal Saini, Advocate for respondents No. 2 and 3.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the Award passed by the Labour Court dated 21.10.1997 (Annexure P-1) by which, the claim of the petitioner that he was the employee of respondent No. 2-Electricity Board and his services were terminated by order dated 30.06.1994, which termination is in violation of the provisions of Industrial Disputes Act, 1947 (hereinafter referred to as '1947 Act') has been rejected.

2. Learned Senior counsel appearing on behalf of the petitioner submits that the petitioner was working as a Driver with respondent No. 2-Electricity Board and he had worked for a period of two years i.e. from the



year 1992 to 1994 with respondent No. 2-Board and his services were wrongly terminated on 30.06.1994. Learned senior counsel further submits that once the petitioner was working with respondent No. 2-Board, the benefit of reinstatement in the service should have been given by the Labour Court by treating respondent No. 2 as the principal employer. The last argument, which has been raised by the learned senior counsel on behalf of the petitioner is that the Contractor force was not eligible to take the contract on the ground that he does not hold license to supply work as per the contract Labour Act, 1970 and, therefore, for all intents and purposes, the petitioner needs to be treated as employee of respondent No. 2-Board and not that of Contractor so as that the petitioner be granted benefit of reinstatement in service.

3. Learned counsel for respondents No. 2 and 3 submits that petitioner was not an employee of the respondent No. 2-Board rather he was an employee of M/s Good Luck Construction Company and the petitioner was working on an outsource basis, which is clear from the evidence that has come on record and has been duly taken into account by the Labour Court while passing the impugned Award so as to hold that there is no master and servant relationship between the petitioner and the respondents, hence, the Award passed by the Labour Court may kindly be upheld.

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

5. The first argument which has been raised by the learned senior counsel appearing on behalf of the petitioner is that the petitioner is to be treated as an employee of respondent No. 2 on the ground that the Contractor



did not have the valid License to supply the work force as per the provisions of Contract Labour Act, 1970 and, therefore, principal employer has to be treated as the employer of the petitioner.

6. It may be noticed that no such evidence has been brought on record by the petitioner to show that the Contractor was not eligible to take the contract. Further, the Contractor was not made a party in the claim petition or even in this present petition, against whom the allegation is made that he was not eligible to supply the work force. In the absence of the Contractor being a party, this argument cannot be raised by petitioner or even considered by this Court. Unless and until the party against whom the allegation is being made so as to seek relief is a party in the claim petition and has been given the opportunity of being heard, no relief can be granted to the petitioner on this ground.

7. Further argument of learned senior counsel appearing on behalf of the petitioner is that the supplying of a work force through a Contractor was a camouflage as it has already come on record that the Executive Engineer concerned had directed the Contractor to send the petitioner through outsourcing agency and, therefore, petitioner has to be treated as the employee of respondent No. 2-Board. It may be noticed that the claim of the petitioner is against the Board to be treated as him Employer and not against the Executive Engineer. Even in case, the Executive Engineer has even told the Contractor to send the petitioner by way of outsourcing, the same will not bind the Board so as to consider the petitioner as an employee of the Board. In case, the petitioner has any grievance, he can avail the grievance against the Executive Engineer, who had recommended his name.



8. No further argument is raised.

9. Keeping in view the totality of the circumstances where the finding has already been recorded by Labour Court in its impugned Award that the petitioner was not an employee of respondent No. 2-Board so as to claim the benefit of reinstatement or any other relief and the perversity in the Award has not been shown, no ground is made out for any interference by this Court.

10. Dismissed.

11. Pending miscellaneous application, if any, also stands disposed of.

March 05, 2025
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No