

**CWP-424-2001 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****224****CWP-424-2001 (O&M)
Date of Decision :03.07.2025****M/s Swaraj Foundry Division, Workers Union****...Petitioner****Versus****General Manager, M/s Swaraj Foundry Division
and others****...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI****Present:** None for the petitioner.

Mr. Sukhwinder Singh Sudar, Advocate for respondent No.3.

Mr. Pawan Kumar Mutneja, Senior Advocate with
Mr. Viranjit S.Mahal & Ms. Suverna Mutneja, Advocates
for respondent No.5.

* * *

Harsimran Singh Sethi, J. (Oral)

1. Present petition was filed in the year 2001 challenging the award dated 17.01.2000 (Annexure P/10) by which, the claim of the petitioner-members of the worker's Union that their services were wrongly terminated and they were the employees of M/s Swaraj Foundry Division, Punjab Tractors Limited, has been rejected.

2. Learned Senior counsel appearing for the respondent No.5 submits that the petitioner-members of the worker's Union were working on outsource basis under a contractor and even the contractor was made party to the claim petition, which fact clearly shows that there existed no master



CWP-424-2001 (O&M)

-2-

and servant relationship between the petitioner and the respondent No.5-Management.

3. Learned Senior counsel appearing for respondent No.5 further submits that the contractor had proved his competency of supplying work force to the respondent-Management before the Labour Court and hence, once, there existed no master and servant relationship between the members of the petitioner-Union and respondent-Management, the impugned award passed by the Labour Court was perfectly valid and legal.

4. Even as per the settled principle of law settled by the Hon'ble Supreme Court of India in **SLP (Civil) No.19648-2023 titled as, The Joint Secretary, Central Board of Secondary Education and another vs Raj Kumar Mishra and others, decided on 17.03.2025**, the factum of master and servant relationship has to be proved on the basis the documents and unless and until there is no regular appointment order in favour of the workman or any salary slip in favour of workman, the master and servant relationship can not be proved. Relevant paragraphs of the said judgments are as under:-

“6. Having considered the facts and circumstances of the case(s) and submissions of learned counsel for the parties, we find 3 substance in the contentions of learned counsel for the appellants. The issue whether the private respondents were employees of the appellants, is the crux of the matter. Whatever material has been placed and even the best point which was argued by the learned Senior Counsel for the private respondents before this Court was that since there was supervisory and jurisdictional control over the private respondents by the appellants, ipso facto, they would become employees of the appellants is noted only to be rejected.

**CWP-424-2001 (O&M)****-3-**

7. This is not only a very simplistic approach, but also a totally erroneous approach in law. For a person to claim employment under any organization, a direct master-servant relationship has to be established on paper. In the present case(s), admittedly, the only document, which the private respondents have in their favour, is showing that they were posted at various places doing different nature of work.

8. This clearly in the considered opinion of the Court would not establish master-servant relationship.”

5. It may be noticed that the present writ petition was filed in the year 2001 and that too by the worker’s Union.

6. Nobody is appearing on behalf of the petitioner-Union. It can be safely presumed that keeping in view the settled principle of law noticed hereinbefore, the petitioner-Union might not be interested in pursuing the present remedy.

7. Dismissed for non-prosecution.

8. Civil miscellaneous application pending, if any, is also disposed of.

July 03, 2025
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No