



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

278+279+280+282+283+286

(1)	CWP-7129-2022	
	Date of Decision: 24.04.2025	
Om Parkash		...Petitioner
	Versus	
Presiding Officer and others		...Respondents
(2)	CWP-7130-2022	
Ashok Kumar		...Petitioner
	Versus	
Presiding Officer and others		...Respondents
(3)	CWP-7143-2022	
Sarabjeet		...Petitioner
	Versus	
Presiding Officer and others		...Respondents
(4)	CWP-9458-2022	
Joginder Kumar		...Petitioner
	Versus	
Presiding Officer and others		...Respondents
(5)	CWP-9516-2022	
Yograj Singh		...Petitioner
	Versus	
Presiding Officer and others		...Respondents



(6)

CWP-10533-2022

Vinod Kumar

...Petitioner

Versus

Presiding Officer and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Gurbachan Singh Gorla, Advocate and
Mr, Karamjit Singh Advocate, for the petitioners.

Mr. Naveen Singh Panwar, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present bunch of writ petitions, the challenge is to the award passed by the Labour Court rejecting the claim of the petitioner(s)-workmen that they were the employees working under Government of Haryana, Department of Public Health.

2. Learned counsel for the petitioner has argued that the petitioners were appointed by the Government of Haryana and they were working with the Government of Haryana and more so, they were working under the direct supervision and control of the Government of Haryana and therefore, should have been treated as employees of the State of Haryana, rather than that of the contractor and therefore, the impugned awards which have been passed by the Labour Court holding that there is no master and servant relationship between the petitioner-workmen and the respondent-department is incorrect and contrary to the settled principle of law and therefore, the said award may kindly be set aside and the petitioner-workmen may be directed to be reinstated in the service with the respondent-



department.

3. Learned counsel for the respondent-department submits that keeping in view the evidences as well as the factual aspects which were brought before the Labour Court for adjudication, nothing has come on record to show that there existed a master and servant relationship between the petitioner-workmen and the respondent-department, rather it was proved that they were working with the respondent-department through the contractors and the contractors were not named and were not made party to the reference raised and finding, which has been recorded by the Labour Court in this order impugned by petitioners-workmen is perfectly legal and valid and may kindly be upheld.

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

5. From the fact which has been noticed in the impugned awards, the petitioners were working with the respondent-department through the contractors who were awarded with the responsibility of supplying the labour. It has been mentioned in paragraph 15 of the award that the contractors to supply the labour force were the approved contractors to supply the labour force and even their names have been mentioned duly. Once, the petitioners-workmen were appointed with the respondent-department through the contractors, the request of the petitioners-workmen that they be treated as the employees of the respondent-department cannot be accepted so as to overrule the finding of the Labour Court.

6. Even during the hearing, the learned counsel for the petitioners conceded that there is no appointment letter issued in favour of the



petitioners-workmen by the department. Once there is no appointment letter issued by the respondent-department in favour of the petitioners-workmen, the claim of the petitioners-workmen that they are the employees of the respondent-department cannot be accepted.

7. The argument further has been raised that the petitioners, even if working through the contractors, but were working with the respondent-department and the respondent-department had full supervisory control over the petitioners-workmen while they were discharging their duties with the department. Hence, they should be treated as the employees of the respondent-department rather than that of the contractors.

8. All these aspects have been considered by the Supreme Court of India in the recent judgment wherein, Hon'ble Supreme Court while passing order in Civil Appeal No.4014 of 2025, decided on 17.03.2025, titled as *The Joint Secretary, Central Board of Secondary Education and others vs. Raj Kumar Mishra and others*, has held that the master and servant relationship requires direct evidence on paper so as to hold that there existed a master and servant relationship between the parties. The Hon'ble Supreme Court of India further rejected the contention that mere supervisory or jurisdictional control over the workman does establish master and servant relationship. Paragraph No.6 of the judgment is as under:-

“6. Having considered the facts and circumstances of the case(s) and submissions of learned counsel for the parties, we find 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.”

9. In the present case, the findings which have been recorded by the Labour Court in its orders impugned are clear that the petitioners-workmen were the worker of the contractors who were posted with the respondent-department. Once there was no appointment order issued by the respondent-department in favour of the petitioners and nothing has come on record to show that the petitioners were being paid salary by the respondent-department, along with the view of the judgment of the Hon’ble Supreme Court of India in *Raj Kumar Mishra’s* case (supra), it cannot be held that the petitioners are the employees of the respondent-department in any manner.

10. The learned counsel appearing on behalf of the petitioners-workmen submits that the petitioners could not have been replaced by another set of employees and reliance has been placed upon the judgment of the Division Bench in CWP-4384-1987, decided on 08.04.1987. The grievance being raised is that the contractor should have the valid licence to engage the workers. It may be noticed that the contractors have not been impleaded as a party and nothing has been brought on record to show that such contractors were not having the required licences to supply workforce. In the absence of any such record or the evidence brought on record before the Labour Court, no finding can be given that the contractors through whom the petitioners were working, were not eligible to get the contract.

11. The further reliance is being placed upon the judgment of the



coordinate Bench in CWP-17441-2013, decided on 03.08.2016, titled as *Shiv Kumar and another vs. State of Haryana and others*, to say that the contractual employee cannot be replaced by another set of contractual employee. The said judgment is not applicable in the present case as, the contractual employees in said case were working under a contract with the department and not through the outsourcing agency. Hence, the said judgment in the case of *Shiv Kumar and another* is not applicable in the facts and circumstance of the present case.

12. Learned counsel for the petitioners further argued that no record was produced by the respondent-department to show that the petitioners were being paid through the contractors. It may be noticed that the petitioners had approached the Court raising their grievance that they are the employees of the respondent-department and they have to stand on their own legs to prove that there is a master and servant relationship between the petitioners and the department which they have concededly not proved before the Labour Court keeping in view the findings recorded.

13. Keeping in view of the above, no ground is made out for any interference by this Court as the awards impugned have not been found to be perverse either to the fact or evidence brought on record. Dismissed.

14. Photocopy of this order be placed on the files of other connected cases.

April 24, 2025

Nisha-I

**(HARSIMRAN SINGH SETHI)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No