

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

105+262

**CM-13928-CWP-2024 in/and
CWP-21967-2021 (O&M)
Decided on : 12.03.2025**

RAKESH KUMAR

. . .Petitioner

Versus

CANARA BANK KHARAK KALAN AND ANR

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Ms. Nirmala Jangra, Advocate for
Mr. Akshit Grover, Advocate for the petitioner.

Ms. Rahish Pahwa, Advocate for the respondents.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-13928-CWP-2024

The prayer in the present application filed by the respondents is for placing on record the written statement dated 22.08.2024.

Keeping in view the averments mentioned in the application, the same is allowed. Copy of written statement dated 22.08.2024 is taken on record subject to all just exceptions.

CWP-21967-2021

1. In the present petition, the challenge is to the award dated 28.05.2019 (Annexure P-4) passed by the Industrial Tribunal-cum-Labour Court by which, the claim of the petitioner that he is the employee of respondent No. 1-Bank has not been accepted.

2. Learned counsel for the petitioner submits that certain customers



of the respondent No. 1- Bank had appeared before the Labour Court as private witness and had given the statement that they had seen the petitioner in the premises of the respondent No. 1- Bank working as a water boy and serving water and they were of the view that the petitioner is the employee of respondent No. 1-Bank, which statements have been ignored by the Labour Court while recording the findings that the petitioner was not the employee of the respondent-Bank, but was a contractor, who had given the generator set to the respondent No. 1-Bank on yearly basis from 1998 onwards and was receiving the emoluments qua the same according to the terms of the agreement reached between the respondent No. 1-Bank and the petitioner. Learned counsel for the petitioner submits that the said findings by the labour Court needs to be reversed as the same are perverse.

3. Learned counsel appearing on behalf of the respondents submits that once there is no appointment order appointing the petitioner to any of the post so as to work with respondent No. 1-Bank and further the relevant record has already been brought on record of the Tribunal depicting that the petitioner was indeed a contractor and had given a generator set to respondent No. 1-Bank on yearly basis being the proprietor of M/s Kalsian Water Supplier, therefore, the findings which have been recorded by the labour Court in its impugned order dated 28.05.2019 (Annexure P-4) are based upon the evidence which has come on record and the same may kindly be upheld.

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

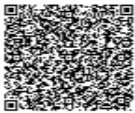
5. In case the petitioner is claiming himself to be an employee of the respondent No. 1-Bank, there has to be an appointment order appointing the petitioner on any of the post which exist with the respondent No. 1-Bank.



While appearing as his own witness during the proceedings before the Tribunal, the petitioner conceded to the fact that there is no such appointment order given to the petitioner by the respondent respondent No.1-Bank at any given point of time so as to show that he worked as an employee with respondent No. 1-Bank. That being so, in the absence of any appointment order in favour of the petitioner, it cannot be said that there was a master and servant relationship between the petitioner and respondent No. 1-Bank so as to grant the petitioner the benefit by treating him as the employee of the respondent No. -Bank.

6. Further, the evidence has already come on record to show that the petitioner was indeed a contractor who had given his generator set to respondent No. 1-Bank on yearly basis and was collecting the money from respondent No. 1-Bank on account of the said generator set being used by the respondent No. 1-Bank. Further, it has also come on record to show that the petitioner himself had written a letter to respondent No. 1-Bank in the capacity of being the contractor for the purpose of enhancement of the said amount which he received on account of the generator he rented, which request was accepted by respondent No. 1-Bank. These facts and evidence have gone unrebutted. Hence, the findings which have been recorded by the Labour Court cannot be treated as perverse in any manner keeping in view the evidences which have come on record.

7. The award of the Labour Court can only be interfered in case same is perverse to the facts and evidence which are already on record but, in the present case, no perversity in the impugned award dated 28.05.2019 (Annexure P-4) could be pointed out by learned counsel for the petitioner, hence, no ground is made out for any interference by this Court in the facts



and circumstances of the present case.

- 8. The present petition stands dismissed.
- 9. Pending application, if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

12.03.2025
Riya

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