



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

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**CWP-17610-2016 (O&M)
Decided on :28.07.2025**

RAMESH KUMAR THROUGH LRS

. .Petitioner

Versus

INDIAN BANK & ANR

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Vishal Garg Narwana, Advocate,
Mr. Arishdeep Maraad, Advocate,
Mr. Khushwant Saharan, Advocate,
Ms. Chetna Rao, Advocate and
Mr. R P S Jammu, Advocate for the petitioner.

None for respondents.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned award dated 06.02.2014 (Annexure P-5) by which, the claim of the petitioner-workman that his services have been terminated in violation of the provisions of the Industrial Disputes Act, 1947 (herein after referred to 1947 Act), has not been accepted by the Tribunal on the ground that his employment with the respondent-bank could not be proved.

2. Learned counsel for the petitioner submits that the petitioner was appointed as a peon-cum-water boy by the respondent-bank on 01.01.1991. Thereafter, on 09.03.1997, the services of the petitioner were terminated by respondent-bank without giving any due reasons for doing the same and therefore, while passing the impugned award, the Tribunal was required to appreciate the fact that the petitioner-workman had worked with respondent-bank for about six years.

3. Learned counsel for the petitioner submits that once, the



petitioner-workman had been working for a period of 6 years with the respondent-bank it cannot be said that he has worked for less than 240 days in the preceding 12 months prior to the date of his termination, hence, the findings recorded by the Tribunal while rejecting the claim of the petitioner may kindly be set-aside.

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

5. While passing the impugned award dated 06.02.2014 (Annexure P-5), the findings have been recorded by the Tribunal that the petitioner-workman had failed to prove that he has worked with the respondent-bank for 240 days in the preceding 12 months prior to the date of his termination from the service.

6. As per the findings recorded, no evidence has been brought on record to show that the petitioner-workman was paid for the service he had rendered, especially for the period of 240 days in the preceding 12 months prior to the date of his termination.

7. On being asked by the Court qua this aspect, learned counsel for the petitioner submits that the petitioner-workman was being paid in cash for his services.

8. It may be noticed that, the respondent is a bank and it is a public knowledge that no workman working in the bank is paid in cash. Learned counsel for the petitioner has not been able to substantiate the said fact that the petitioner was paid for 240 days in the preceding 12 months prior to the termination of his services, which is an essential requirement to claim the benefit of retrenchment compensation under the provisions of 1947 Act.

9. As per the settled principle of law settled by Hon'ble Supreme



Court of India in SLP (Civil) No. 19648 of 2023 titled as ‘The Joint Secretary Central Board of Secondary Education & another vs. Raj Kumar Mishra & others, decided on 17.03.2025, it is the duty of the workman to prima facie show to the Court that he was the employee of the respondent-establishment and that too on the basis of documentary evidence such Appointment order in favour of workman or salary slip.

The relevant paragraph No. 6 is 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.

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.”



10. As per settled principle of law, settled by Hon'ble Supreme Court of India in **Raj Kumar Mishra's case (supra)**, the relationship between employee and the employer is to be proved on the basis of the documentary evidence on record, such as appointment order and salary slip. Concededly, no such evidence has been brought on record by the petitioner, to prove the claim, and the said aspect has been rightly taken as a ground by the Tribunal while rejecting the claim of the petitioner.

11. Even otherwise, the Award dated 06.02.2014 (Annexure P-5) passed by Labour Court can only be interfered in case the same is perverse to the facts, evidence on record, on settled principles of law. In the present case, no perversity has been shown to this Court with the impugned Award that the same is contrary to the facts or evidence on record or the settled principle of law.

12. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

13. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

28.07.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No