



CWP-17998-2021

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

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Date of Decision :06.05.2025

Mangal**...Petitioner****Versus****Presiding Officer, Industrial Tribunal-cum-Labour Court,
Hisar and others****...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Tara Chand Dhanwal, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the award dated 02.02.2017 (Annexure P/15) passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar by which, the prayer of the petitioner-workman that his services were terminated in violation of the provisions of Industrial Tribunal Act, 1947 (hereinafter referred to as '1947 Act') has been declined.

2. Learned counsel for the petitioner-workman submits that the petitioner-workman worked as Beldar-cum-Mali with the respondents from 01.10.1999 till 31.10.2014 and despite 15 years of service, at the time when the services of the petitioner-workman were retrenched, the benefit of retrenchment compensation was not paid to him, which violates the provisions of the 1947 Act hence, the benefit of reinstatement in service

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with all consequential benefit should have been granted by the Labour Court to the petitioner-workman whereas, the Labour Court by misreading the facts and the evidence that had come on record declined the said reference raised by petitioner-workman.

3. Learned counsel for the petitioner-workman submits that the petitioner-workman had completed 240 days in service in a calender year preceding his termination from service, hence, the respondents are liable to be directed to grant him the benefit of reinstatement in service with all consequential benefits.

4. Learned counsel for the respondents submits that even while filing the claim petition, the petitioner-workman himself impleaded the outsourcing agency under whom he had worked as party. Learned counsel for the respondents further submits that there exists no master and servant relationship between the petitioner-workman and the respondent-State and no evidence qua the said aspect except for the bald statement of the petitioner-workman had come on record, which has been disbelieved by the Labour Court while passing the impugned order hence, the impugned award may kindly be set sustained.

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

6. 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.



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.

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.”

7. Learned counsel for the petitioner-workman has not been able to produce any documentary evidence such as appointment order issued in his favour by respondent-State and no salary slip issued to petitioner-workman by respondent-State has been brought on record to show that at any given point of time, the petitioner-workman was being paid by the respondent-State. It should be noted that as per the settled principle of law settled in **Raj Kumar Mishra (supra)**, the relationship of master and servant has to be proved by documentary evidence, which the petitioner-workman has not been able to do so.

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8. Further, the petitioner-workman himself had impleaded the outsourcing agency as party in the reference raised before the Labour Court. That being so, once, the petitioner-workman was working under the outsourcing agency, the claim that there existed a master and servant relationship between the petitioner-workman and respondent-State, cannot be accepted.

9. A finding has been recorded by the Labour Court that except the bald statement of the petitioner-workman, nothing has come on record to corroborate the said bald statement of the petitioner-workman that the petitioner-workman was the employee of the respondent-State. In the absence of any corroborative evidence brought on record, the finding recorded by the Labour Court that there existed no master and servant relationship between the petitioner-workman and respondent-State, needs no interference by this Court especially, when the same has not been proved to be perverse either to the facts or evidence that have come on record.

10. Keeping in view the facts and circumstances recorded hereinbefore, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

May 06, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No