

1. Present bunch of three writ petitions involve common question of law in the context of common set of facts and thus they are being decided by a common order.
2. In the present bunch of petitions, the challenge is to the award dated 16.03.2016 (Annexure P-3) in all the petitions by which, the respondent(s)-workmen have been reinstated in service along with 50% of the backwages and the liability has been fastened upon the petitioner-Municipal Committee, Indri, Karnal instead of the Contractor, who was the employer of the respondent(s)-workmen.
3. Learned counsel for the petitioner-Municipal Committee submits that keeping in view the assertions of the respective party which have been recorded by the Labour Court including the cross-examination of the respondent(s)-workmen in Paragraph-15 of the award, the respondent(s)-workmen had conceded the fact that the respondent(s)-workmen were employed through the Contractor and they were also getting the pay from the said Contractor and even the ESI contributions were being deducted and paid by the said Contractor but still, while granting the relief to the workmen, the liability of reinstatement and the payment of backwages has been fastened upon the petitioner-Municipal Committee, Indri, Karnal even though, there was no master and servant relationship between the petitioner and the respondent(s)-workmen.
4. Learned counsel for the petitioner-Municipal Committee, Indri, Karnal argues that the relief granted is contrary to the findings recorded to the issues concerned by the Labour Court hence, the relief part should be set

aside so as to make the petitioner liable for reinstatement and payment of 50% of backwages to the respondent-workmen.

5. Learned counsel appearing on behalf of the respondent(s)-workmen concedes the factum that they were appointed through the Contractor but submits that as they were working with the petitioner-Municipal Committee, Indri, Karnal, the relief granted by the award dated 16.03.2016 (Annexure P-3) has been rightly given to respondent(s)-workmen as the petitioner-Municipal Committee were to reinstate them where they were working and the institution for which they working, has rightly been made liable to grant the backwages as well.

6. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

7. It is a conceded fact between the parties which is clear from the findings which have been recorded by the Labour Court that the respondent(s)-workmen were the employees of the Contractor and not of the petitioner-Municipal Committee, Indri, Karnal. Even the respondent(s)-workmen in their statement have stated that they were employed by the Contractor and were also being paid by the Contractor but on the asking of the Contractor, they were posted with the petitioner-Municipal Committee, Indri Karnal, where the respondent(s)-workmen were discharging the duties.

8. Once, the aforementioned finding has been given by the Labour Court that respondent(s)-workmen were the employee of the Contractor and an another finding has also been recorded that there is no master and servant relationship between the respondent(s)-workmen and the petitioner-Municipal Committee, Indri, Karnal instead of employee Contractor granting of the relief against the petitioner(s)-Municipal Committee, Indri,

Karnal was beyond the findings recorded by the Labour Court. The relief can only be granted against the employer and not against the 3rd party. Once it is held that there is no master and servant relationship between the petitioner-Municipal Committee and the respondent-workmen, petitioner-Municipal Committee could not have been directed to not only to reinstate the workmen but also to pay them back-wages.

9. Keeping in view the facts stated hereinbefore, the award dated 16.03.2016 (Annexure P-3) is set aside and the present bunch of petitions are remanded back for fresh adjudication with regard as to whether any relief is to be given to the respondent(s)-workmen and if yes, who is liable for the execution of the said relief.

10. Present bunch of petition(s) are allowed in above terms.

11. Pending application, if any, also stands disposed of.

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

20-02-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE:

Whether speaking: YES

Whether reportable: NO