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

CWP-13686-2018 (O&M)

Date of Decision : 30-04-2025

**THE MANAGING DIRECTOR, THE JHAJJAR CENTRAL CO-
OPERATIVE BANK LIMITED**

.....Petitioner(s)

VERSUS

PARDEEP AND ANR.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Khatkar, Advocate for the petitioner.

Mr. Sandeep Singal, Advocate for the respondent No.1.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the award passed by the labour Court dated 18.09.2017, copy of which has been appended as Annexure P-3 by which, the respondent-Workman has been held to be employee of the petitioner-Bank and it has been held that the service of the said employee has been terminated in violation of Section 25F and Section 25H of the Industrial Disputes Act, 1947 and by virtue of the said impugned award, the benefit of reinstatement along with continuity in service along with all other consequential benefits has been granted hence, it is the prayer of the petitioner that the impugned award dated 18.09.2017 (Annexure P-3) be set aside.

2. Learned counsel for the petitioner-Bank argues that there existed no master and servant relationship between the petitioner-bank and the respondent-Workman and that the respondent-Workman was appointed with the Bank through an outsourcing agency namely M/s Peerless Security Services, Rohtak hence, direction given to the petitioner-Bank by the Labour Court to reinstate respondent-Workman in service is contrary to the facts and the evidence, which have come on record hence, the award dated 18.09.2017 (Annexure P-3) may kindly be set aside.

3. Learned counsel for the petitioner-Bank argues that no appointment order issued by the petitioner-Bank in favour of the respondent-Workman has been brought on record hence, the petitioner-Bank is not liable to reinstate the respondent-Workman in service as there exists no master and servant relationship between them.

4. Upon notice of motion, the respondent-Workman has appeared and supported the award impugned.

5. Learned counsel for the respondent-Workman submits that the respondent-Workman has been working with the petitioner-Bank from 10.02.2008 to 29.05.2015 and drawing salary from them, which fact has gone un rebutted hence, the award impugned may kindly be upheld

6. Learned counsel for the respondent-Workman further submits that the assertion of the petitioner-Bank that the respondent-Workman was working through an outsourcing agency with the petitioner-Bank has been dealt with by the Labour Court extensively in Paragraph-15 of the impugned award dated 18.09.2017 (Annexure P-3) and a categorical finding has been recorded by the Labour Court stipulating that the petitioner-Bank has not been able to prove that the respondent-Workman was working with the

petitioner-Bank through an outsourcing agency hence, the award impugned dated 18.09.2017 (Annexure P-3) passed in favour of the respondent-Workman may kindly be upheld.

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

8. The only ground putforth by petitioner-Bank to challenge the award impugned in the present petition is that there existed no master and servant relationship between the petitioner-Bank and respondent-Workman hence, the impugned award dated 18.09.2017 (Annexure P-3) passed in favour of the respondent-Workman directing reinstatement along with continuity in service, should be set aside.

9. The assertion of the learned counsel for the petitioner-bank is that the respondent-Workman was working through various outsourcing agencies such as M/s Kathuria Manpower Security Service, Panipat, M/s Baba Haridas Sercurity Service, Rohtak and M/s Peerless Security Service, Rohtak.

10. Learned counsel for the petitioner-Bank further argues that one Pradeep Chander was examined as MW-4 and similarly, one Ravinder Kumar, Partner of M/s Peerless Security Service, Rohtak was examined as MW-2 and keeping in view statement made by them before Labour Court, the Labour Court should have recorded a finding that there existed no master and servant relationship between the petitioner-Bank and the respondent-Workman.

11 It may be noticed that though, the personnel from the outsourcing security agencies were examined and their statements supported the assertion of the petitioner-Bank but it is a matter of record that no

documentary evidence to support the statements made by the management witnesses that respondent-Workmen was indeed an employee of the Contractor Agencies was produced on record. A categorical finding qua the said aspect has been recorded by the Labour Court, stipulating that no service agreement executed between the respondent-Workman and the Contractor-M/s Peerless Security Service, Rohtak has been brought on record to prove the contention of the petitioner-Bank that the respondent-Workman was indeed the employee of the said security agency.

12. The oral assertions of the witnesses were not supported by any documentary evidence produced in the proceedings so as to deny the existence of master and servant relationship between the petitioner-Bank and the respondent-Workman especially when, it is a conceded fact that the respondent-Workman had worked for the petitioner-Bank in question from the year 2008 till 2015, when his services were terminated.

13. Further, no evidence qua the fact that the security service agency paid the salary to the respondent-Workman was brought on record. In the absence of any such evidence being brought before the labour Court, it cannot be said that the assertion of the petitioner-Bank that there existed no master and servant relationship between the petitioner-Bank and the respondent-Workman was proved to the satisfaction of the Labour Court.

14. In the absence of any such evidence brought on record, the findings recorded by the labour Court that once, it is conceded by the petitioner-Bank that the respondent-Workman was working with the petitioner-Bank from year 2008 to 2015, the assertion of the petitioner-Bank that the award dated 18.09.2017 (Annexure P-3) is contrary to the evidence brought on record or perverse to the facts, cannot be accepted.

15. Further, the findings which have been recorded by the Labour Court can only be interfered in case, the same are proved to be perverse to the facts or the evidence which has come on record.

16. Learned counsel for the petitioner-bank has not been able to show to this Court any record produced by any of the outsourcing agency proving the contention of the petitioner-Bank that there existed a master and servant relationship between said outsourcing agency and the respondent-Workman.

17. Keeping in view the totality of the circumstances, especially when, the respondent-Workman had waived off his claim for backwages before the Labour Court so as to attain employment, the direction given by the labour Court to the petitioner-Bank that the respondent-Workman should be reinstated along with continuity in service needs no interference at the hands of this Court.

18. Though, the operation of the award dated 18.09.2017 (Annexure P-3) was stayed by order dated 30.07.2018 but even the application filed by the respondent-Workmen under Section 17-B of the Industrial Disputes Act, 1947 Act could not be decided.

19. A period of more than 7 ½ years has elapsed, since the respondent-Workman has been agitating for his claim for implementation of the award impugned.

20. Keeping in view the said fact, the respondent-Workman be treated to be in the service of the petitioner-Bank starting from 01.10.2017 and he will also be entitled for the salary for the post on which he was working as, an order passed by the Court granting the interim order for

staying the award impugned would be adverse to the interest of the respondent-Workman especially when the award dated 18.09.2017 (Annexure P-3) has been upheld by this Court thus, the interim order cannot be the reason causing prejudice to the respondent-Workman, therefore, in order to secure the interest of the respondent-Workman, he will be paid his wages on the basis in respect of the post on which he was working i.e. starting from 01.10.2017 onwards and he will be deemed to be reinstated in service w.e.f 01.10.2017 for all intents and purposes.

21. Present petition stands dismissed.

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

30-04-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO