



CWP-19818-2024

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

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Date of Decision :25.02.2025

Sombir

...Petitioner

Versus

**Presiding Officer, Industrial Tribunal-cum-Labour Court,
Rohtak and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Virender Kumar, Advocate for the petitioner.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance being raised by the petitioner-Workman is qua the award dated 29.08.2023 (Annexure P/4) passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak by which, the claim raised by the petitioner-Workman against the respondent No.2 has been rejected.

2. As per the learned counsel for the petitioner, the petitioner-Workman raised a claim before the Labour Court against the respondent No.2 on the ground that he was working as Chowkidar with respondent No.2 from 25.07.2016 to 14.03.2018 and his services have wrongly been terminated by respondent No.2 and petitioner-Workman should be granted the benefit of reinstatement along with full back wages whereas, the respondent No.2 appeared before the Labour Court and submitted that there

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is no master and servant relationship between the petitioner-Workman and respondent No.2 as the petitioner-Workman was appointed through the Contractor.

3. Learned counsel for the petitioner-Workman argues that the Tribunal in order to deny the claim to the petitioner-Workman has held that the respondent No.2 has brought on record documents Ex.W-2 to Ex.W-31 to prove that the petitioner-Workman was also paid through the Contractor so as to record the finding that there was no master and servant relationship between the petitioner-Workman and respondent No.2 as the petitioner-Workman was the employee of the Contractor and was being paid by the Contractor hence, aforementioned, award of the Labour Court is under challenge in the present petition.

3. Learned counsel for the petitioner argues that once, the petitioner-Workman was working with the respondent No.2, for all intent and purposes the respondent No.2 was the employer of the petitioner-Workman and therefore, the relief being claimed by the petitioner-Workman for reinstatement in service along with back wages has wrongly been denied by the Labour Court vide impugned award dated 29.08.2023 (Annexure P/4).

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

5. From the impugned award dated 29.08.2023 (Annexure P/4), it is clear that respondent No.2 brought on record the evidence which has been noticed in Para-4 of the impugned award dated 29.08.2023 (Annexure P/4) that the petitioner-Workman was not the employee of respondent No.2 but

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was employee of the Contractor and even he was being paid by the Contractor.

6. Learned counsel for the petitioner has not been able to rebut the said finding, which has been noticed by the Labour Court. Once, the petitioner-Workman was appointed through the Contractor and was paid by the Contractor merely that petitioner-Workman was working with respondent No.2 does not mean that the petitioner-Workman becomes the employee of respondent No.2 hence, the findings recorded by the Labour Court that there was no master and servant relationship between the petitioner-Workman and respondent No.2 is not perverse to the material evidence and facts which have been brought on record.

7. Learned counsel for the petitioner-Workman further argues that the respondent No.2 was the principal employer and therefore, principal employer is liable to the relief of reinstatement along with full back wages, which was being claimed by the petitioner-Workman.

8. It may be noticed that in the present award dated 29.08.2023 (Annexure P/4), the Contractor was not made a party and nothing evident has come on record that the Contractor was not eligible to take contract for supplying the work force. In the absence of any such finding that the Contractor was not eligible to take contract for supplying the work force, the argument of the learned counsel for the petitioner-Workman that the principal employer should be made liable, cannot be accepted.

9. No other argument has been raised.

10. Keeping in view the facts and circumstances recorded hereinbefore, present petition is dismissed.

February 25, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No