



CWP-472-2017 and other connected cases :1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210 (23 cases) CWP-472-2017 (O&M)
Date of decision : 17.01.2025
SAROJ Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS Respondents

1 CWP-27163-2016 (O&M)
ANITA Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS Respondents

2. CWP- 473-2017 (O&M)
SUNITA Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS Respondents

3. CWP-474-2017 (O&M)
PURAN MAL Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS Respondents

4. CWP- 475-2017 (O&M)
NEERAJ Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS Respondents

5. CWP-500-2017 (O&M)
SURESH Petitioner

VERSUS



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PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents

6. CWP- 501-2017 (O&M)

NEELAM

..... Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents

7. CWP- 502-2017 (O&M)

HARISH SIKKA

..... Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents

8. CWP-503-2017 (O&M)

BALWAN

..... Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents

9. CWP- 504-2017(O&M)

SATISH KUMAR

..... Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents

10. CWP-505-2017 (O&M)

SANDEEP

..... Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents

11. CWP- 506-2017 (O&M)

NARESH



CWP-472-2017 and other connected cases :3
..... Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS
..... Respondents

12. CWP- 507-2017 (O&M)

SARVAR Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS
..... Respondents

13. CWP- 508-2017 (O&M)

JAI KUMAR Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS
..... Respondents

14. CWP-509-2017 (O&M)

MANJEET
..... Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS
..... Respondents

15. CWP- 536-2017 (O&M)

SHEELA DEVI
..... Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS
..... Respondents

16. CWP-575-2017 (O&M)

PARDEEP
..... Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS
..... Respondents



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17.

CWP- 694-2017 (O&M)
- ANIL KUMAR

..... Petitioner
- VERSUS
- PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents
18.

CWP-697-2017 (O&M)
- AMIT

..... Petitioner
- VERSUS
- PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents
19.

CWP-698-2017 (O&M)
- BANTI

..... Petitioner
- VERSUS
- PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents
20.

CWP-710-2017 (O&M)
- CHAND

..... Petitioner
- VERSUS
- PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents
21.

CWP-757 of 2017 (O&M)
- VIJAY KUMAR

..... Petitioner
- VERSUS
- PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ROHTAK AND ORS

..... Respondents
22.

CWP- 27227 of 2016 (O&M)
- SURENDER

..... Petitioner
- VERSUS
- PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,



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ROHTAK AND ORS

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Sandeep Singal, Advocate
for the petitioners.

Mr. Amit Rao, Advocate for
respondent No.2 in CWP-27163 of 2016,
CWP Nos.472, 473, 475, 504, 506 and 536 of 2017.

Mr. Bhuwan Vats, Advocate
for respondent No.2 in remaining matters (through VC).

Harsimran Singh Sethi, J. (Oral)

1. In the present Bunch of petitions, the grievance being raised by the petitioners is qua the award 20.09.2016 (Annexure P-6) by which, the employer of the petitioners i.e. respondent No.3-the outsourcing agency, has been directed to give the benefits of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as '1947 Act') to the petitioners.

2. The grievance of the petitioners is that instead of the outsourcing agency, the Post Graduate Institute of Medical Sciences, Rohtak should have been made liable to pay compensation as the petitioners are to be treated as the employees of the said institution instead of the contractor who was availing the services of the petitioners on the basis of a contract with the PGIMS Rohtak.

3. Learned counsel for the petitioner submits that the liability to pay the compensation should be put upon respondent No.2 instead of respondent No.3.



4. Upon notice of motion, the respondent No.2 has appeared and submits that there was no master and servant relationship between the petitioners and respondent No.2 and the petitioners were only working under a contract between the respondents No.2 and 3.

5. Learned counsel for the respondent No.2 further submits that a categorical finding has been recorded that there is no master and servant relationship between the petitioner and respondent No.2 and even the salaries were being paid to the petitioners by respondent No.3 hence, the claim of the petitioners that instead of respondent No.3, the respondent No.2 should have been made liable to comply with the provisions of Section 25-F of 1947 Act, is liable to be rejected.

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

7. The petitioners are claiming that the respondent No.2 should be treated as their employer so as to grant the benefits of the award as respondent No.2 failed to comply with Section 25 F of 1947 Act. The question which is raised in the present petition is whether respondent No.2 is the employer or respondent No.3 is the employer of the petitioners.

8. Certain facts has gone undisputed such as the petitioners were never appointed by respondent No.2 by any appointment order issued in the favour of the petitioners. Further, evidence has come before the Labour Court on the basis of which a categorical finding has been recorded wherein the petitioners have conceded a fact that they were being paid salary by respondent No.3. Once, the petitioners have failed to establish any and



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master and servant relationship between the petitioners and respondent No.2, asking for modification of the award dated 20.09.2016 so as to treat respondent No.2 as the employer so as to grant the benefit of Section 25-F, cannot be accepted.

9. Further, the argument which has been raised by the petitioners is that the services of the petitioners were terminated by respondent No.2 and not respondent No.3 hence, it is respondent No.2 who should be made liable. On being asked to point out any evidence that the order terminating the services of the petitioners was passed by respondent No.2, learned counsel for the petitioners has not been able to point out any order passed by respondent No.2 terminating the services of the petitioners.

10. At this stage, learned counsel for the petitioners submits that the services were terminated orally by saying that the services of the petitioners are no longer required.

11. It may be noticed that as the petitioners were posted with the respondent No.2 by respondent No.3 to perform the duties, petitioners were only told that their service are not required which does not mean that their services were terminated. They were only directed to report to their employer, who had posted the petitioners with respondent No.2. In the absence of any such order passed by respondent No.2 terminating the services of the petitioners, the assertion that respondent No.2 terminated the services of the petitioners can not be accepted, and has rightly been rejected by the Labour Court while passing the impugned award.

12. Learned counsel for the petitioners has placed reliance that



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keeping in view the order passed by Hon'ble the Supreme Court of India in **Civil Appeal No.11335 of 1995 titled 'Secretary, Haryana State Electricity Board Vs. Suresh', decided on 30.03.1999,** the veil has to be lifted to find out as to whether, the contractor was licensed contractor under the Contract Labour Act, 1970 or not, who was providing the manpower to the principal employer hence, the respondent No.2 should be held liable being the principal employer.

13. The judgment is to be applied keeping in view the evidence which has come on record so as to prove certain facts.

14. On being asked to point out any fact which has proved that the respondent No.3 is not the licensed contractor or was not legally allowed to supply the manpower to the respondent No.2, learned counsel for the petitioners has fairly submitted that no such evidence has come on record. Further, the learned counsel for the petitioners was asked as to whether, the said assertion was raised in the demand notice, learned counsel for the petitioners has not been able to point any discrepancy which existed with the respondent No.3 to supply the manpower being a contractor. In the absence of any pleading or any evidence on record to show that respondent No.3 was not a licensed contractor or was not legally allowed to supply the manpower, the judgment of the Hon'ble Supreme Court of India in **Suresh Kumar (supra)** cannot be made applicable in the facts and circumstances of the cases.

15. No other argument has been raised.

16. Keeping in view the above, no ground is made out to modify



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the award passed by Labour Court so as to make respondent No.2 liable instead of respondent No.3. Hence, all the petitions are dismissed.

17. Pending miscellaneous applications, if any also, stand disposed of accordingly.

18. A photocopy of this order be placed on the connected case files numbered above.

(HARSIMRAN SINGH SETHI)
JUDGE

17.01.2025
Rimpal

Whether speaking/reasoned	Yes
Whether Reportable :	No