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

**CM-15102-CWP-2024 in/and
CWP-21843-CWP-2023
Date of Decision : 28-04-2025**

SHIV KUMAR

.....Petitioner

VERSUS

THE PRESIDING OFFICER AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Gitanjali Chhabra, Advocate and
Ms. Muskan, Advocate for the petitioner.

Mr. Nitin Goswami, Advocate for
Mr. Satyam Tandon, Advocate
for respondent Nos.2 and 3.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-15102-CWP-2024

This is an application for placing on record written statement on behalf of respondent Nos.2 and 3.

Keeping in view the contents mentioned in the application, the same is allowed. Written statement on behalf of respondent Nos.2 and 3 is taken on record subject to all just exceptions.

CWP-21843-CWP-2023

1. In the present petition, the grievance of the petitioner is that a finding has been recorded by the Labour Court by impugned award dated 24.08.2022, copy of which has been appended as Annexure P-9 that there

was no master and servant relationship between the petitioner and respondent Nos.2 and 3 hence, the claim raised by the petitioner with regard to the termination of the petitioner, cannot be accepted hence, it is the prayer of the petitioner that award impugned dated 24.08.2022 (Annexure P-9) be set aside.

3. Learned counsel for the petitioner argues that even if it is assumed for the sake of arguments that the petitioner was the employee of respondent Nos.4 Contractor and not respondent Nos.2 and 3 and as the respondent No.4-Contractor was proceeded against *ex parte*, a finding should have been recorded by Labour Court while passing impugned award that whether termination of service of the petitioner by the respondent No.4-Contractor, the provisions of the Industrial Disputes Act, 1947 (for short “1947” Act) were followed or, the same been violated while terminating the services of the petitioner so as to grant the benefit under the 1947 Act to the petitioner hence, the impugned award dated 24.08.2022 (Annexure P-9) declining the benefit to the petitioner, is arbitrary and illegal.

4. Learned counsel appearing on behalf of respondent Nos.2 and 3 submits that once there existed no master and servant relationship between petitioner and respondent Nos.2 and 3, the finding recorded by the Tribunal in its order impugned is perfectly valid and legal and the same may kindly be disposed of.

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

6. Once, the principal employer along with the Contractor was made a party in the proceedings initiated in the claim petition filed by

petitioner-Workman before the Labour Court, even if the Labour Court in its impugned order came to the conclusion that there existed no master and servant relationship between the petitioner and the respondent Nos.2 and 3 i.e. the principal employer, a finding should have been recorded by the Labour Court qua the master and servant relationship between the petitioner and the Contractor i.e. the respondent No.4.

7. The Labour Court has not looked into the said aspect so as to consider the claim of relief qua illegal termination of the petitioner.

8. Though, the Tribunal has recorded a finding that the petitioner was employed through the Contractor i.e. respondent No.4, while holding that there was no occasion for alleged termination of the services of the petitioner at the hands of respondent Nos.2 and 3, the issue qua the respondent Contractor i.e. respondent No.4 that whether respondent No.4-Contractor followed the provisions of the Industrial Disputes Act, 1947 or not while terminating the services of the petitioner has not been dealt with, which should have been dealt by the Tribunal keeping in view the claim raised by the petitioner.

9. Keeping in view the circumstances of the present case, the findings of the Labour Court in the impugned award dated 24.08.2022 (Annexure P-9) qua the fact that the petitioner does not have any master and servant relationship between respondent Nos.2 and 3, is upheld but the case is remanded back to the tribunal to adjudicate afresh upon the claim of the petitioner qua respondent No.4-Contractor as to whether, the petitioner is entitled for any benefit qua his termination against the respondent No.4-Contractor.

10. The petitioner as well as respondent No.4 i.e. the Contractor are directed to appear before the Tribunal on 03.07.2025.

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

28-04-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO