



CWP-33488-2018 (O&M) & connected case 1

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

**(222) CWP-33488-2018 (O&M)
Date of Decision : July 02, 2025**

Municipal Committee, Shahabad .. Petitioner

Versus

Subhash Chand and others .. Respondents

(222-A) CWP-36246-2018 (O&M)

Municipal Committee, Shahabad .. Petitioner

Versus

Subhash Chand and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. M.S. Rana, Advocate for
Mr. Jivesh Malik, Advocate, for the petitioner (s)
in both petitions.

Mr. Ravinder Bangar, Advocate, and
Ms. Anjali Bangar, Advocate, for respondent No.1
in both petitions.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, two writ petitions, the details of which have been given in the heading, are being disposed of as both the petitions involve the same question of law on similar facts.

2. In the present writ petitions, the challenge is to the Award dated 29.05.2018 (Annexure P-6) passed by the Labour Court by which, the

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respondent No.1-workman, who was appointed through the contractor, has been directed to be treated as the employee of the petitioner-Corporation and the benefit of reinstatement in service with continuity and full back wages from the date of termination till date of reinstatement has been granted to respondent No.1-workman.

2. In the writ petitions, it has been averred that there is no master and servant relationship between the petitioner-Corporation and respondent No.1-workman, which is clear from the fact that even before the Labour Court, the stand of the respondent No.1-workman was that he was appointed through the contractor who was also impleaded as respondent No.4 and who also appeared and gave the statement that the respondent No.1-workman was his employee but still, the benefit of reinstatement in service with continuity and full back wages has been granted so as to treat the workman as the employee of the petitioner-Corporation, which is incorrect and contrary to the settled principle of law.

3. Learned counsel appearing on behalf of the respondent No.1-workman submits that though it is a conceded fact that respondent No.1-workman was working through the contractor but as the Municipal Corporation was the place where he was discharging the duties and the Municipal Corporation was supervising his duties for all intents and purposes, the respondent No.1-workman was the employee of the Municipal Corporation, which fact has rightly been appreciated by the Labour Court vide Award dated 29.05.2018 (Annexure P-6) so as to grant him the benefit and therefore, the writ petitions may kindly be dismissed.

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

5. It is a conceded position that the respondent No.1-workman was working on outsource basis under the contractor. Once the respondent No.1-workman was working under the contractor, considering him the employee of the petitioner-Corporation only on the ground that he was working in the Corporation and was under the supervision of the petitioner-Corporation, is not the correct appreciation of the facts keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.4014 of 2025 tiled as The Joint Secretary, Central Board of Secondary Education and others vs. Raj Kumar Mishra and others, deciding on 17.03.2025.*** The Hon'ble Supreme Court of India after appreciating the facts has held that merely that the employees were working under the supervisory and jurisdictional control over the Management, is not good enough reason to treat them as employees of the management unless there is a written order appointing them. The relevant paragraph 6 and 7 of the judgment is as under:

“6. Having considered the facts and circumstances of the case(s) and submissions of learned counsel for the parties, we find substance in the contentions of learned counsel for the appellants. The issue whether the private respondents were employees of the appellants, is the crux of the matter. Whatever material has been placed and even the best point which was argued by the learned Senior Counsel for the private respondents before this Court was that since there was supervisory and jurisdictional control over the private respondents by the appellants, ipso facto, they would become employees of the appellants is noted only to be rejected.”



7. *This is not only a very simplistic approach, but also a totally erroneous approach in law. For a person to claim employment under any organization, a direct master-servant relationship has to be established on paper. In the present case(s), admittedly, the only document, which the private respondents have in their favour, is showing that they were posted at various places doing different nature of work.”*

6. In the present case, it is a conceded fact that the respondent No.1- workman was working under the contractor and even the contractor was made a party and the contractor had also submitted in his testimony that the respondent No.1-workman was his employee and was posted in the Municipal Corporation.

7. The facts which came on record have not been appreciated in a manner required by the Labour Court while passing the impugned Award dated 29.05.2018 (Annexure P-6) rather the finding recorded are contrary to the settled principle of law noticed hereinbefore in ***Raj Kumar Mishra's case (supra)***.

8. Learned counsel for the respondent No.1-workman submits that while granting the relief of reinstatement in service with continuity and full back wages, it has been mentioned that the contractor did not had the valid licence.

9. On being asked to point out whether the licence of the contractor was brought on record, learned counsel for the respondent No.1-workman has failed to show the said fact.

10. Further, for recording the said finding by the Labour Court, there is no discussion by the Labour Court whether the contractor had the valid licence keeping in view the material evidence which has come on

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record. No evidence brought on record to support the said finding has been mentioned.

11. Keeping in view the totality of the circumstances, the impugned Award dated 29.05.2018 (Annexure P-6) in both the petitions is set aside and the case is remanded back to the Labour Court for fresh adjudication on the basis of the material evidence which has been brought on record to specifically record the finding as to whether, the contractor had a valid licence or not and in case, the contractor had a valid licence, then the liability with regard to the termination of the services is to be determined qua the contractor only. Let the fresh adjudication be completed within a period of six months from first date of appearance.

12. Parties are directed to appear before the Labour Court on 20.08.2025.

13. The present writ petitions are disposed of in above terms.

14. Civil miscellaneous application pending if any, also stands disposed of.

15. A photocopy of this order be placed on the file of other connected case.

July 02, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No