

CWP No. 13915 of 2022 (O&M) and
other connected cases

2025:PHHC:036957



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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 281)**

(1) CWP No. 13915 of 2022 (O&M)
Date of Decision : 18.03.2025

Rani Kaur

...Petitioner

Versus

**Presiding Officer, Central Government Industrial Tribunal-cum-Labour
Court-2 and another**

...Respondents

(2) CWP No. 13930 of 2022 (O&M)

Major Singh

...Petitioner

Versus

**Presiding Officer, Central Government Industrial Tribunal-cum-Labour
Court-2 and another**

...Respondents

(3) CWP No. 13928 of 2022 (O&M)

Pawan Kumar

...Petitioner

Versus

**Presiding Officer, Central Government Industrial Tribunal-cum-Labour
Court-2 and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Hitesh Verma, Advocate for the petitioner(s) in all cases.

Mr. Karajveer, Advocate for

Mr. Piyush Khanna, Advocate for respondent No. 1
in all cases.



Mr. Sanjeev Kaushik, Advocate for respondent No. 2
in all cases.

Harsimran Singh Sethi J. (Oral)

1. In the present bunch of petitions, the challenge is to the Award dated 09.08.2021 (Annexures P-10, P-6 and P-8) respectively passed by the Labour Court by which, the claim of the petitioner(s) that their services have been terminated in violation of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as '1947 Act') including Section 25F, has been declined.

2. Learned counsel for the petitioner(s) argues that the services of six employees who were working on the same terms and conditions, were terminated by the respondents. Learned counsel submits that the same Officer of the Tribunal, on the basis of similar evidence, while considering the plea of the Management that the Workmen were working under the Contractor, held that in three cases, as the Management has not been able to prove that the Workmen were being paid by the Contractor, the claim of the Workmen has been allowed, which judgment has already been upheld by this Court while passing order in CWP No. 5082 of 2022 titled as ***The General Manager, Telecom, Bathinda Vs. Presiding Officer, Central Government, Industrial Tribunal-cum-Labour Court-II, Chandigarh and another***, decided on 19.12.2024, whereas in the case of the present petitioner(s), a total somersault has been taken by the Labour Court that the oral assertion by the petitioner(s) that they were being paid by the Management directly



has been disbelieved on the ground that the oral assertion cannot be believed without corroborating evidence.

3. Learned counsel for the petitioner(s) further submits that two contradictory orders have been passed by the Tribunal. Learned counsel submits that Award declining the relief has been challenged by the petitioner(s) in the present bunch of petitions, on the basis that the relief was granted by the Tribunal in the case of the similarly situated employees and the writ petition filed by the Management against the said Award has also been dismissed hence, the present petitions are also liable to be allowed.

4. Learned counsel appearing on behalf of the respondents submit that once the oral assertion of the petitioner(s) has been disbelieved by the Labour Court, as the same was not corroborated with evidence, the impugned Award passed by the Labour Court is perfectly valid and legal. Learned counsel for the respondents concedes that the writ petition filed by the Management where the relief was granted to the Workmen, has been dismissed by the Co-ordinate Bench of this Court in CWP No. 5082 of 2022 and connected cases.

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

6. It may be noticed that the services of the six employees were terminated by the respondent-Management, who were similarly situated. It is also a conceded position that the objection was taken by the Management qua all the terminated employees that there is no master and servant relationship between the employees/petitioner(s) and the Management and



they were appointed through the Contractor. The Labour Court did not accept the plea of the petitioner(s) herein on the ground that the oral assertion of the petitioner(s) has not been corroborated by any evidence and as they have failed to prove that they were being directly appointed or paid by the Management, no relief can be granted whereas, in the case of other 03 similarly situated employees, a contradictory finding has been recorded that once an assertion has been made by the employees that they were in the service of the respondent-establishment, it was the duty of the Management to prove that they were working under the Contractor and not the Management so as to grant them relief. Hence, Labour Court has recorded contradictory finding though the facts of all the employees remained the same and the objections raised by the respondent-establishment was also the same.

7. In the cases, where the relief was given to the similarly situated employees by the Labour Court, the Award given in their favour holding that the Management failed to prove that the Workmen were working under the Contractor, the writ petitions filed by the respondent-Management have been dismissed by the Co-ordinate Bench and the relief granted to the Workmen has been upheld. That being the factual position, once the objection of the respondent-establishment was the same in case of all the employees but the Tribunal accepted the claim in the case of the similarly situated employees but rejected the same claim in the case of the petitioner(s) herein, the Award against the petitioner(s) cannot be sustained being contradictory, especially when the Award granting relief to the similarly situated employees has



already been upheld by a Co-ordinate Bench of this Court. It is very surprising that even the Officer who had passed the Award is the same, hence, the question of taking two different views in the similar matter, has gone unexplained at the hands of the Tribunal.

8. Once, the finding recorded by the Labour Court that once the service of the employee with the Management is conceded, the liability that the Management was not the employer, is to be proved by the Management. The said finding recorded has already been upheld by Co-ordinate Bench of this Court in the case of the similarly situated employees, contradictory finding of Labour Court cannot be upheld so as to create discrimination between similarly situated employees, especially when the respondents have not pointed out any differentiating facts between the employees granted relief by the Labour Court and the petitioner(s) in the present bunch of petitions.

9. Consequently, the impugned Award declining the claim to the petitioner(s) is set-aside. The petitioner(s) need to be treated on the similar footing as the other three employees in whose favour the Award was passed, which Award has already been upheld by the Co-ordinate Bench of this Court while passing order in CWP No. 5082 of 2022.

10. Now, the question which arises is as to what lump sum compensation can be paid to the petitioner(s). As per the judgment of the Division Bench of this Court in LPA No. 1203 of 2021 titled as ***Sukhbir Singh Vs. State of Haryana and others***, decided on 01.03.2023, for each completed year, the compensation is to be paid @ ₹50,000/- in case



reinstatement is not granted to the Workman. Relevant paragraphs No. 6 and 7 of the said judgment are as under :-

“6. Resultantly, once the workman had completed 240 days and apparently had worked for a period spanning more than 5 ½ years, we are of the considered opinion that dispensing of his service before his contractual period came to an end would entitle him for the statutory protection which would be evident from the award of the Labour Court. However, keeping in view the fact that at this point of time, it would not be justified to put him back in service since a period of almost 25 years has gone by and therefore, it would be just and appropriate to award compensation to the tune of Rs.2,50,000/- on an average of Rs.50,000/- per year, keeping in view the fact that the State had taken his service for more than 5 years with the same office in different districts.

7. The Apex Court in [Haryana Urban Development Authority Vs. Om Pal](#), (2007) 5 SCC 742 granted Rs.25,000/- for the service of one year whereas in [Uttaranchal Forest Development Corporation Vs. M.C.Joshi](#), (2007) 9 SCC 353, for a period of 2 years, a sum of Rs.75,000/- was granted. Similarly, in [Asst.Engineer, Rajasthan Development Corporation & another Vs. Gitam Singh](#), 2013 (1) SCR 679, the said view was followed while noticing that the service was of 8 months and thus, compensation of Rs.50,000/- was granted. Similarly, in [Management, Hindustan Machine Tools Ltd. Vs. Ghanshyam Sharma](#), 2018 (18) SCC 80, for a period of one year, compensation of Rs.50,000/- had been granted. In [K.V.Anil Mithra & another Vs. Sree Sankaracharya University of Sanskrit & another](#), 2021 (4) SCT 415, for a period of little over 4 years, amount awarded was Rs.2,50,000/- in lieu of the



reinstatement and backwages of 50% which was granted and accordingly, modified.”

11. Applying the said ratio, as the petitioner-workman, namely, Rani Kaur had worked from 28.05.1998 to 01.03.1999 (almost 01 year), therefore, she will be entitled for a lump sum compensation of ₹50,000/-. The petitioner-workman, namely, Major Singh had worked for a period from 14.10.1993 to 01.03.1999 (five and half years), hence, he will be entitled for a compensation of ₹3,00,000/-. The workman, namely, Pawan Kumar had worked for a period from 22.08.1994 to 01.03.1999 (four and half years), hence, he will be entitled for a compensation of ₹2,50,000/-.

12. Keeping in view the fact that the Award dated 09.08.2021 has been set-aside and in the case of the similarly situated employees, interest has also been granted from the date of the Award, the petitioner(s) will also be entitled for interest @ 6% per annum from the date of the Award till the actual payment of the same.

13. Let the present order be complied with within a period of eight weeks from the date of receipt of copy of this order.

14. Present petitions are allowed in above terms.

15. Pending miscellaneous application, if any, also stands disposed of.

March 18, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No