



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 249)**

**(1) CWP No. 5766 of 2019 (O&M)
Date of Decision : 13.02.2025**

**The Commissioner, Municipal Corporation, Yamuna Nagar, Jagadhari
and another**

...Petitioners

Versus

Lokesh Kaushik and another

...Respondents

(2) CWP No. 5723 of 2019 (O&M)

**The Commissioner, Municipal Corporation, Yamuna Nagar, Jagadhari
and another**

...Petitioners

Versus

Virender Kumar and another

...Respondents

(3) CWP No. 5781 of 2019 (O&M)

**The Commissioner, Municipal Corporation, Yamuna Nagar, Jagadhari
and another**

...Petitioners

Versus

Ram Charan and others

...Respondents

(4) CWP No. 5784 of 2019 (O&M)

**The Commissioner, Municipal Corporation, Yamuna Nagar, Jagadhari
and another**

...Petitioners

Versus

Kamal Kamboj and another

...Respondents



(5)

CWP No. 5987 of 2019 (O&M)

The Commissioner, Municipal Corporation, Yamuna Nagar, Jagadhari
and another

...Petitioners

Versus

Janak Raj and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sanjay Saini, Advocate,
Mr. Ajay Kirpal Singh, Advocate and
Mr. Ojasvi Took, Advocate for
Mr. Rajesh K. Sheoran, Advocate for the petitioners
in all cases.

Mr. Ramesh Hooda, Advocate for respondent No. 1
in CWP-5766-2019, CWP-5723-2019 & CWP-5784-2019,
CWP-5987-2019.

Mr. Rajesh Punj, Advocate for respondents No. 1 and 2
in CWP-5781-2019.

Harsimran Singh Sethi J. (Oral)

CM-8304-CWP-2024 in CWP-5766-2019, CM-8292-CWP-2024 in CWP-5723-2019, CM-9307-CWP-2024 in CWP-5784-2019 and CM-9281-CWP-2024 in CWP-5987-2019

Present applications have been filed for the purpose of amending the Memo of Parties and for impleading M/s Tanwar Security Services, M/s Oscar Security and Fire Services, M/s Target Security & Allied Services as respondents No. 3, 4 and 5 respectively.

Notice of the application was already issued to learned counsel for the respondents.



Mr. Ramesh Hooda, Advocate, who is present in Court, accepts notice on behalf of the respondent No. 1. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the applications, which are duly supported by separate affidavits, present applications are allowed. M/s Tanwar Security Services, M/s Oscar Security and Fire Services, M/s Target Security & Allied Services are impleaded as respondents No. 3, 4 and 5 respectively and the petitioners are allowed to amend the memo of parties.

CMs stand allowed.

CM-8305-CWP-2024 in CWP-5766-2019, CM-8369-CWP-2024 in CWP-5723-2019, CM-9308-CWP-2024 in CWP-5784-2019 & CM-9282-CWP-2024 in CWP-5987-2019

Applications are allowed, as prayed for.

Amended Memo of Parties are taken on record.

CWP-5766-2019 and other connected cases

1. In the present bunch of petitions, the challenge is to the Award passed by the Tribunal dated 26.10.2018 (Annexure P-5) in CWPs-5766, 5723, 5784 and 5987 of 2019 as well as Award dated 30.04.2018 (Annexure P-3) in CWP-5781-2019 by which a direction has been given to reinstate the Workmen along with 50% back wages and 9% interest on the said back wages.

2. Learned counsel for the petitioners submits that the respondent-Workmen were employed in the service through a Contractor and, therefore, once the fact is that the Contractor was the employer, the direction given by the Tribunal to reinstate the respondent-Workmen with the petitioners by



treating the petitioners as Principal Employer, should not have been granted. Learned counsel for the petitioners further argue that under any circumstances, the impugned order of the Tribunal granting 50% back wages and that too with interest does not hold any weight and is without any valid justification as nothing has come on record that during the said period, the respondent-Workmen remained out of service and they were not gainfully employed and in the absence of any such finding given or the evidence discussed, the relief given by Tribunal of granting the back wages along with interest is even otherwise liable to be set-aside.

3. Learned counsel appearing on behalf of the respondent-Workmen submits that the impugned Award was passed in the year 2018 and as per relief granted in the said Award, the Workmen have already been reinstated by the petitioners and they are still working, hence, the assertion of the petitioner to treat Contractor as Principal Employer and thus, throwing them out of the service under the petitioner at this stage, especially when they have worked for a period of more than six years after reinstatement, will be too harsh upon them. Learned counsel for the respondent-Workmen submits that he has received the instructions to submit that the respondent-Workmen have decided to wave off their right to claim 50% back wages and 9% interest on said back wages, which was granted to them by the Tribunal in case the reinstatement is upheld.

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



5. Once, a finding has been recorded by the Labour Court that the Contractor was not licensed and that the Workmen were engaged only by Principal Employer i.e. Fire Brigade Officer, thus, they could not have employed the Workmen, such finding recorded by the Tribunal cannot be treated as arbitrary, illegal or against the settled principle of law.

6. Learned counsel for the petitioner has not been able to prove that the finding that the Contractor was not eligible to get the contract was perverse in any manner and neither has this assertion been rebutted in any manner either on the basis of the facts or the evidence on record, therefore, relief given by Tribunal of granting the benefit of reinstatement to the Workmen who have already been reinstated for past six years and are working, needs no interference at the hands of this Court.

7. With regard to the claim of the petitioners for the setting-aside of the 50% back wages along with interest thereon, the learned counsel appearing on behalf of the respondent-Workmen have already submitted that they have no objection in case, the Award granting them the 50% back wages with 9% interest is modified then the same would be waived off by the respondent-Workmen in favour of the petitioners.

8. That being so, the present petitions are being disposed of to the effect that Award of the Labour Court is modified to the extent that the respondent-Workmen will be entitled for reinstatement which benefit has already been extended to them but without any back wages or the interest as granted by the Labour Court.



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

10. A photocopy of this order be placed on the file of connected cases.

February 13, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No