



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

244-6

Decided on : 22.05.2025

1. CWP-170-2024 (O&M)

DISTRICT FOOD AND SUPPLY CONTROLLER

..PETITIONER

Versus

PRESIDING OFFICER INDUSTRIAL TRIBUNAL AND ANOTHER

...RESPONDENTS

2. CWP-190-2024 (O&M)

DISTRICT FOOD AND SUPPLY CONTROLLER

..PETITIONER

Versus

PRESIDING OFFICER INDUSTRIAL TRIBUNAL AND ANOTHER

...RESPONDENTS

3. CWP-209 -2024 (O&M)

DISTRICT FOOD AND SUPPLY CONTROLLER

..PETITIONER

Versus

PRESIDING OFFICER INDUSTRIAL TRIBUNAL AND ANOTHER

...RESPONDENTS

4. CWP-218-2024 (O&M)

DISTRICT FOOD AND SUPPLY CONTROLLER

..PETITIONER

Versus

PRESIDING OFFICER INDUSTRIAL TRIBUNAL AND ANOTHER

...RESPONDENTS

5. CWP-2312-2024 (O&M)

DISTRICT FOOD AND SUPPLY CONTROLLER

..PETITIONER

Versus

PRESIDING OFFICER INDUSTRIAL TRIBUNAL AND ANOTHER

...RESPONDENTS

6. CWP-15285 -2024 (O&M)

DISTRICT FOOD AND SUPPLY CONTROLLER



..PETITIONER

Versus

PRESIDING OFFICER INDUSTRIAL TRIBUNAL AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Himanshu Raj, Additional Advocate General, Punjab.

Mr. Dharamveer Phour, Advocate
for respondent No. 2 in
CWP-190-2024, CWP-218-2024 and CWP-15285-2024.

Mr. Aniket Sindhar, Advocate
for respondent No. 2 in CWP-170-2024, CWP-209-2024 and
CWP-2312-2024.

HARSIMRAN SINGH SETHI, J. (Oral)

1. By this common order, all the above mentioned writ petitions are being disposed of as all the writ petitions involve the same question of law on similar facts.

2. In the present bunch of petitions, the challenge is to the impugned award dated 31.08.2022 (Annexure P-3 in CWP-170-2024), by which, the termination of the services of the respondents-workman has been found to be illegal as unfair labour practice had been adopted by the petitioner by not allowing the workman to complete 240 days in a calendar year by re-appointing him in a few days of interval so as to frustrate his right to claim certain benefits under 1947 Act under which completion of 240 days in a calendar year is a condition requisite to claim such benefits. Accordingly, the respondent-workman was directed to be reinstated in service with



continuity alongwith 50 % back wages w.e.f. 20.05.2019 i.e. date of the filing of the claim statement.

3. Learned counsel for the petitioner-department submits that rather than adjudicating upon the claim of the petitioner-department as to whether there existed any master and servant relationship between the respondent workman and petitioner-department, impugned award has been passed by the labour Court only on the ground that the maligned efforts were made by the petitioner to not to allow the respondent-workman to complete 240 days in a calendar year prior to the date of termination of the services of the respondent-workman.

3. Learned counsel for the petitioner-department further submits that all the respondent-workman were working through the contractor, which issue has not been at all dealt by the labour Court especially when , no appointment letter issued by petitioner in favour of workman was brought on record by the workman to show that there existed a direct master and servant relationship between the both so as to claim the benefit of reinstatement in service alongwith 50 % back wages by way of filing under claim petition.

4. Learned counsel for the respondent(s)-workman, on the other hand submits that once the impugned award has been passed holding that the termination of the services of the respondent-workman was bad and by practicing unfair labour practice, the same kindly be upheld.

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

6. It may be seen that from the day one, the master and servant relationship between the respondent-workman and petitioner-department is



being disputed. The respondent-workman has to prove that they were the employee of the petitioner-department before any direction is given by the labour Court to reinstate the respondents-workman in service with the petitioner-department.

7. A bare perusal of the impugned award would show that such issue though arises on the basis of the pleadings which has been noticed, but the same has not been decided by the labour Court.

As per the judgment of the Hon'ble Supreme Court of India in *Special Leave Petition (civil) No. 19648 of 2023 titled as The Joint Secretary, Central Board of Secondary Education and another vs. Raj Kumar Mishara and others, decided on 17.03.2025* merely working under the supervision and control of the department does not mean there exists a master and servant relationship between the department and an employee.

The relevant paragraph No. 6 is as under:-

“6. Having considered the facts and circumstances of the case(s) and submissions of learned counsel for the parties, we find 3 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. ”

8. Keeping in view the facts and circumstances of the present case and as the main issue whether there exists a master and servant relationship between the petitioner-department and respondents-workman has not been decided by the Labour Court, the impugned award dated 31.08.2022 (Annexure P-3 in CWP-170-2024) passed by the labour Court is set-aside and the cases are remanded back to the labour Court to decide upon the said issue afresh that whether the master and servant relationship between the petitioner-department and respondent-workman exists or not.

9. Parties are directed to appear before the labour Court on 03.07.2025.

10. The present petition is disposed of in above terms.

11. Pending civil miscellaneous application, if any, stands disposed of.

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

**(HARSIMRAN SINGH SETHI)
JUDGE**

22.05.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No