



CWP-8087-2016 (O&M) and connected case

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

**(291) CWP-8087-2016 (O&M)
Date of Decision : January 08, 2025**

M/s Tenon Project Services Pvt. Ltd. .. Petitioner

Versus

The Presiding Officer and another .. Respondents

(291-A) CWP-662-2017

M/s Peregrine Guarding Pvt. Ltd. .. Petitioner

Versus

The Presiding Officer and another .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashutosh Kaushik, Advocate, for the petitioner(s)
in both cases.

Mr. Ajay Bhardwaj, Advocate, for
Mr. Madhu Ranjan, Advocate, for respondent No.2.

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 grievance being raised by the petitioners are that without deciding the actual issue whether the respondent-employee was a 'Workman' under Section 2 (s) keeping in view the post on which he was working, the benefit has been allowed by the Labour Court in favour of the respondent-employee by invoking Section 25-

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F of the Industrial Disputes Act, 1947 (hereinafter referred as “1947 Act”).

3. Learned counsel for the petitioner submits that their contention was that the respondent-employee was not Workman and was working in a supervisory and administrative authority, has been noticed but no finding has been given on the issue of whether the respondent-employee was Workman before invoking Section 25-F of the Industrial Disputes Act by the Tribunal-cum-Labour Court hence, the impugned Award given by it dated 11.03.2016 and 01.09.2016 are liable to be set aside.

4. Learned counsel appearing on behalf of respondent-employee submits that though, the stand was taken that employee was not working in the supervisory authority or was doing administrative duties but it was the duty of the Labour Court to decide the said issue on the basis of the evidence which has already come on record keeping in view the statement of the employee concerned.

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

6. Once a particular issue has been raised which goes to the root of the issue whether, the benefit can be claimed by the respondent-employee under the 1947 Act or not, it was the duty of the Labour Court to first decide the issue whether, the respondent-employee is a Workman or not keeping in view the evidence which has come on record. Though, the Labour Court has noticed the said objection raised on behalf of the petitioner but no finding has been recorded before invoking Section 25-F of the 1947 Act. Section 25-F of the 1947 Act can only be invoked qua a Workman and therefore, the first finding which was needed to be recorded by the Labour Court was whether the respondent-employee was a Workman or not.

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7. In the absence of any such finding, invoking of Section 25-F of the 1947 Act by the Labour Court to grant the relief, is incorrect and cannot be accepted. The Award dated 11.03.2016 (Annexure P-5) in CWP-8087-2016 and Award dated 01.09.2016 (Annexure P-1) in CWP-662-2017 are set aside. Issue is remanded back to the Labour Court to pass fresh Awards by first deciding whether the respondent-employee is a Workman in the facts and circumstances of the present case keeping in view the evidence which has been brought on record so as to be entitled the benefits admissible under the 1947 Act or not.

8. As a sufficient time has elapsed, the Labour Court is requested that the issue be decided as expeditiously as possible preferably within a period of six months from the first date the parties appear.

9. Parties are directed to appear before the Labour Court, Gurgaon on 04.02.2025.

10. The present writ petitions are allowed in above terms.

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

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

January 08, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No