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CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Aman Nain, Advocate, for
Mr. Ravinder Malik (Ravi), Advocate, for the petitioner(s)
in all petitions.

Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, four writ petitions, the details of which have been given in the heading, are being disposed of as all these petitions involve the same question of law on similar facts.
2. In the present bunch of writ petitions, the challenge is to the Award passed by the Labour Court by which, the claim of the petitioner(s)-workmen that their services have been terminated by the respondent-Department and that too in violation of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred as '1947 Act'), has not been accepted.
3. Learned counsel for the petitioner(s)-workmen submits that the reason for not accepting the claim of the petitioner(s)-workmen is that there is no master and servant relationship between the petitioner(s)-workmen and the respondent-Department, which is incorrect.
4. Learned counsel for the petitioner(s)-workmen further submits that the petitioner(s)-workmen were working under the supervision and control of the respondent-Department and once the said fact is established, merely on the ground that the petitioner(s)-workmen were appointed through a contractor, will not suffice the issue so as to record the finding that there is no master and servant relationship.
5. Learned counsel for the petitioner(s)-workmen further submits

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that once the petitioner(s)-workmen have worked for a period of one year as Pump Operator, the petitioner(s)-workmen are entitled for the benefit of reinstatement as no retrenchment compensation was paid by the respondent-department.

6. Learned counsel for the respondents submits that once there was no appointment order issued to the petitioner(s)-workmen and no salary was ever paid by the respondent-department to the petitioner(s)-workmen, the finding recorded by the Labour Court that there is no master and servant relationship between the petitioner(s)-workmen and the respondent-Department is perfectly valid and legal and the writ petitions may kindly be dismissed.

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

8. As per the settled principle of law settled by the Hon'ble Supreme Court of India, the master and servant relationship has to be proved on the basis of the documents which are needed to be brought on record.

9. 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 Mishra and others, decided on 17.03.2025***, held that even if a person is working under the direct supervision and control of a Principal Employer unless and until, there is an appointment order issued by the Principal Employer in favour of the workman or the salary was being paid by the Principal Employer directly to the Workman, it cannot be said that there exists a master and

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servant relationship between them. The relevant paragraphs 6, 7 and 8 of the said 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.

8. This clearly in the considered opinion of the Court would not establish master-servant relationship.”

10. In the present case, it is a conceded fact that no appointment order was ever issued by the respondent-department in favour of the petitioner(s) and secondly, no payment was ever made by the respondent-Department to the petitioner(s)-workmen.

11. Further, the respondent-department has it on record to show that the petitioner(s)-workmen were working through the contractor. The said fact has not been rebutted by the learned counsel for the petitioner(s)-workmen in any manner.

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12. Once, learned counsel for the petitioner(s)-workmen has not been able to prove that the petitioner(s)-workmen were appointed by the respondent-Department and were being paid by them, keeping in view the documents brought on record before the Labour Court, the finding recorded by the Labour Court that there is no master and servant relationship cannot be treated as perverse to the facts and material evidence brought on record.

13. Keeping in view the totality of the circumstances, as the Award has not been shown to be perverse to the facts or evidence on record, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

14. Accordingly, the writ petitions are dismissed.

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

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

May 07, 2025

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No