



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

**CM-7226-7227-CWP-2025 in/and
CWP-3715-2018 (O&M)
Date of Decision : 20-05-2025**

SANTOSH

.....Petitioner

VERSUS

**PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM- LABOUR
COURT, PANIPAT AND ANR.**

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naveen Daryal, Advocate for the petitioner.

Mr. R.S Longia, Advocate and
Mr. Subhash Saini, Advocate
For respondent No.2 –Municipal Committee, Tarori
In all the cases.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-7226-7227-CWP-2025 in/and CWP-3715-2018 (O&M)

Present applications have been filed for seeking condonation of delay of 30 days in filing the present application and for restoration of the main writ petition as well as for final disposal of the writ petition after its restoration.

Notice of the applications to the counsel opposite.

Mr. R.S Longia, Advocate and Mr. Subhash Saini, Advocate accepts notice on behalf of respondent No.2 –Municipal Committee, Tarori and raises no objection for the grant of prayer as raised in the present applications.

For the reasons recorded, the applications are allowed. Delay of 30 days in filing the present application is condoned and the main writ petition is restored to its original number and status and the same is taken on board for final hearing today itself.

CWP-3715-2018 (O&M)

1. In the present petition, the challenge is to the award dated 23.10.2017 Annexure (P-3) passed by the Labour Court by which, the claim of the petitioner that she is the employee of the Municipal Committee, Tarori, District Karnal has not been accepted so as to allege the violations of the Industrial Disputes Act, 1947 (hereinafter referred "1947 Act").

2. Learned counsel for the petitioner argues that the petitioner was appointed as Sweeper in the year 2010 and as she continued working till December, 2013 till her service was terminated and that too without giving any opportunity of hearing or show cause notice and without following the provisions of the 1947 Act hence, she was terminated in an illegal and arbitrary manner, which fact has not been appreciated by the Labour Court in the award dated 23.10.2017(Annexure P-3) while rejecting the claim of the petitioner for the grant of relief against the order of termination.

3. Learned counsel for the petitioner submits that as the petitioner was working under the supervision and control of the Municipal Committee, Tarori, District Karnal, the petitioner is deemed to be the employees of the Municipal Committee, Tarori irrespective of the fact that the petitioner was appointed through the outsourcing agency.

4. Further, learned counsel for the petitioner argues that as per the Notification dated 26.06.2014/23.07.2014, copy of which has been appended

as Annexure P-4, the benefit has to be granted to the petitioner with regard to allowing them to continue in service.

5. Learned counsel for the respondents on the other hand submits that once, it is clear fact that the petitioner was working through the outsourcing agency and there was no master and servant relationship between the petitioner and the respondent, the findings recorded by the Labour Court is perfectly valid and legal hence, the present petition filed by the petitioner be dismissed.

6. Learned counsel for the respondents further submits that with regard to the Notification dated 23.07.2014 (Annexure P-4), the same were only applicable on the date when the Notification issued 23.07.2014 (Annexure P-4) whereas the petitioner was not working hence, no benefit of the same can be made out, which fact has rightly been appreciated by the Labour Court in the award dated 23.10.2017 Annexure (P-3).

7. I have heard the learned counsel for the parties and have gone through the records of the present case with their able assistance.

8. The fact that the petitioner was working through the outsourcing agency has not been rebutted.

9. Once, the petitioner was appointed through the outsourcing agency, the question whether there is a master and servant relationship between the petitioner and the respondent-Municipal Committee, Tarori, District Karnal is to be seen on the basis of the facts and material evidences, which has been brought on record.

10. Learned counsel for the petitioner concedes the fact that there was no appointment order issue to the petitioner by the respondent-

Municipal Committee, Tarori, District Karnal and D.A was being paid through the 3rd outsourcing agency.

11. That being the factual position, it cannot be said that there is a master and servant relationship between the petitioner and the respondent-Municipal Committee, Tarori, District Karnal.

12. With regard to the assertion that the petitioner was working under the direct control and supervision of the respondent-Municipal Committee, Tarori, District Karnal, the same has to be adjudicated in view of the judgment of the the Hon'ble Supreme Court of India in Civil Appeal No.4014 of 2025 titled "***The Joint Secretary, CBSE and ors. Vs. Raj Kumar Mishra and ors.***", decided on 17.03.2025, wherein , it has been held that unless the master and servant relationship is proved through the documentary evidence, merely on the ground that there was a direct supervisory control of the employer over the employee, cannot be taken as a ground to decide the master and servant relationship between both the petitioners and the respondent-Workmen. The relevant paragraph 6 and 7 of the said judgement is as under:-

“XXX....

6. *Having considered the facts and circumstances of the case(s) and submissions of leaned 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 organisation, 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.....XXX”

13. A bare perusal of the above reproduction would shows that even if there is supervision and control, unless and until there is an appointment order given by the employer, no master and servant relationship can be alleged.

14. Learned counsel for the petitioner has not been able to rebut the said proposition of law.

15. With regard to the Notification dated 23.07.2014 (Annexure P-4), the same was applicable only on a person who was working as on November, 2013 and continued to work till Notification was issued whereas, before the Notification was issued, the service of the petitioner has already come to an end hence, the application of the same as being claimed by the petitioner is not admissible in her favour.

16. Further, the award dated 23.10.2017 (Annexure P-3) can only be interfered with in case there is any perversity and no perversity has been shown to this Court.

17. No ground is made out for any interference by this Court as the perversity in the award dated 23.10.2017 (Annexure P-3) has not been

shown hence, the present petition stands dismissed.

18. Pending application, if any, also stands disposed of.

20-05-2025

Sapna Goyal

(HARSIMRAN SINGH SETHI)

JUDGE

NOTE:

Whether speaking: YES

Whether reportable :NO