



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 229)**

- (1) CWP-5281-2016 (O&M)
Date of Decision : 26.03.2025
Jonika ...Petitioner
Versus
Presiding Officer, Industrial Tribunal, Bathinda and others
...Respondents
- (2) CWP-5924-2016 (O&M)
Kavita @ Neeta ...Petitioner
Versus
Presiding Officer, Industrial Tribunal, Bathinda and others
...Respondents
- (3) CWP-5949-2016 (O&M)
Pardeep Singh ...Petitioner
Versus
Presiding Officer, Industrial Tribunal, Bathinda and others
...Respondents
- (4) CWP-6173-2016 (O&M)
Surinder Singh ...Petitioner
Versus
Presiding Officer, Industrial Tribunal, Bathinda and others
...Respondents
- (5) CWP-6248-2016 (O&M)
Mohinder Pal ...Petitioner

CWP-5281-2016 (O&M) and
other connected cases

2025:PHHC:041310



2

Versus

Presiding Officer, Industrial Tribunal, Bathinda and others

...Respondents

(6)

CWP-6418-2016 (O&M)

Manjit Singh

...Petitioner

Versus

Presiding Officer, Industrial Tribunal, Bathinda and others

...Respondents

(7)

CWP-7994-2016 (O&M)

Hardeep Singh

...Petitioner

Versus

Presiding Officer, Industrial Tribunal, Bathinda and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Puneet Kumar Bansal, Advocate for the petitioner(s)
in all cases.

Mr. Jagdish Manchanda, Advocate and
Mr. Ravi Gakhar, Advocate for respondents No. 2 and 3
in all cases.

Harsimran Singh Sethi J. (Oral)

1. In the present bunch of petitions, the challenge is to the Award of the Labour Court dated 07.12.2015 (Annexure P-9) on the ground that once, the petitioner(s)-Workmen were working with the respondent-Bank and no record of the outsourcing agency was brought before the Labour



Court so as to show that petitioner-Workmen were engaged in the service through them, the petitioner(s)-Workmen should have been treated as the employees of the Management rather than of the outsourcing agency and, therefore, the impugned Award dated 07.12.2015 (Annexure P-9) is liable to be set-aside.

2. Learned counsel appearing on behalf of the respondent-Bank submits that from the day one, the claim of the respondent-Bank is that services of the petitioner(s)-Workmen were outsourced and the payment qua their service rendered was being given to them by the outsourcing agency and there is no appointment order in favour of the petitioner(s)-Workmen by the respondent-Bank, which fact could show that the petitioner(s)-Workmen were in fact not employees of the respondent-Bank, therefore, the totality of the evidence which was brought on record clearly go to show that the petitioners-Workmen were working with the respondent-Bank through the outsourcing agency and hence, as there was no master and servant relationship between the petitioner(s)-Workmen and the respondent-Bank, the Award impugned has rightly been passed declining the relief to the petitioner(s)-Workmen.

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

4. The Hon'ble Supreme Court of India while passing order in Special Leave Petition (Civil) No. 19648 of 2023 titled as ***The Joint Secretary, Central Board of Secondary Education and other Vs. Raj Kumar Mishra and others***, decided on 17.03.2025 has held that the master



and servant relationship has to be proved on the basis of the written evidence and there has to be an appointment order in favour of the Workmen. It may be noticed that as per the judgment of the Hon'ble Supreme Court of India in ***Raj Kumar Mishra and others' case (supra)***, unless and until there is a written appointment order, the master and servant relationship cannot be accepted merely on the ground of pleading. In the said case also, the claim of the employer was that the Workmen were working with them through the Contractor.

5. Though, in the present case, there is concededly no appointment order in favour of the petitioner(s)-Workmen but, the claim of the petitioner(s)-Workmen is that even the details of the Contractor have not been brought on record so as to substantiate the same.

6. Learned counsel for the respondents submits that once the Tribunal has accepted the claim that the petitioner(s)-Workmen were working through the outsourcing agency, the same is not required to be dwelled into again by this Court.

7. The said assertion is not correct. Unless and until it is proved that the petitioner(s)-Workmen were working with respondent-Bank through a particular outsourcing agency to whom the contract was given and the payments qua the service rendered were made, the bald statement of the respondent-Bank could not have been accepted by the Tribunal so as to pass the impugned order.

8. Keeping in view the totality of the circumstances, the impugned Awards as challenged in these petitions are set-aside. The cases are



remanded back to the Tribunal for fresh adjudication. In case, the respondent-Bank is able to bring on record any evidence so as to show that the services of the petitioner(s)-Workmen were being outsourced through a particular Contractor whose details are brought and the petitioner(s)-Workmen were being paid through the said Contractor, the Tribunal will consider the said fact by giving due opportunity to rebut the said fact to the petitioner(s)-Workmen.

9. As the petitioner(s)-Workmen are suffering from the impugned order, the Labour Court is requested to decide the issue as expeditiously as possible preferably within a period of six months from the first date of hearing. The parties are directed to appear before the Labour Court on 05.05.2025.

10. The writ petitions are allowed in above terms.

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

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

March 26, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No