
(1995) 01 P&H CK 0010
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6017 of 1993

Ram Sarup (deceased) and Others	Vs	APPELLANT
The Presiding Officer and Others		RESPONDENT

Date of Decision : 31-01-1995

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1)(c)

Citation : (1996) 73 FLR 1139 : (1996) 2 LLJ 837 : (1995) 110 PLR 672

Hon'ble Judges : N.K. Sodhi, J

Bench : Single Bench

Advocate : Arun Palli, for the Appellant; Hemant Gupta, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Sodhi, J.—This petition under Article 226 of the Constitution is directed against the award of the Presiding Officer, Labour Court, Patiala whereby the reference made to it u/s 10(1)(c) of the Industrial Disputes Act, 1947 (for short, the Act) was answered against the Petitioner (workman) and in favour of the management.

2. According to the statement of the claim filed before the Labour Court the workman alleged that he had put in three years and one month service as a watchman with M/s. Markfed Modern Rice Mills, Rajpura (hereinafter called the management) and that his services had been wrongly terminated without any notice, charge sheet, enquiry or compensation. He claimed reinstatement with continuity of service and full back wages. The management resisted the claim of the workman and the stand taken by it was that he was never its employee. What was pleaded was that the workman had been employed through a contractor and being his employee there was no relationship of master and servant between the parties.

3. In support of its case, the management produced Parveen Kumar a Munshi of the contractor as MW 1 who proved documents Exhibit M1 to M30 to show that

the workman was one of the employees of the contractor (Shri Nasib Chand). MW2 appeared and produced contract Exhibit M34 entered into between the contractor and the management. The workman did not produce any documentary evidence in support of his claim that he was directly employed by the management. On a consideration of the entire evidence led by the parties, the Labour Court came to the conclusion that the workman was an employee of the contractor and not that of the management and consequently, the reference was declined and it was held that the workman was not entitled to any relief.

4. The only argument advanced by Shri Palli in support of the petition is that the finding of fact recorded by the Labour Court was without any evidence and is, therefore, perverse which is liable to be set aside in the present proceedings under Article 226 of the Constitution.

5. I have given my thoughtful consideration to the contention of the learned Counsel and find no merit in it. Photo copies of the documents Exhibits M1 to M33 were produced before me during the course of arguments. It is common case of the parties that the name of the Petitioner appears amongst the names of the employees whose presence has been marked in the attendance register. Shri Palli submitted that since these have been signed on behalf of the management, it should be presumed that the workman was its employee. This is not so. A look at these documents shows that a number of employees were employed whose wages have been calculated in the last column and the amount has been totalled up at the end. These documents (Exhibits M2 and M3) no doubt, have been paid by the management to the contractor as per the work slip which is Exhibit M1 on the record. This document has been signed by the contractor. Similar is the case with other documents. All these documents go to show that the wages of the employees mentioned therein had been paid by the management to the contractor and the names of the employees mentioned therein include the name of the workman. The only irresistible conclusion that can be drawn from these documents is that the workman was the employee of the contractor. I fail to understand as to how the finding recorded by the Labour Court can be said to be one which is based on no evidence. It is true that some of the attendance sheets bear the name of the management but when read in the context of the payment slips which have been duly signed by the management as well as by the contractor go to show that the wages were paid by the former to the latter. The fact that some of the attendance sheets contain the name of the management is, therefore, of no consequence.

6. No other point was raised.

7. In the result, there is no merit in the writ petition and the same stands dismissed leaving the parties to bear their own costs.