



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

वीरवार, 23 अक्टूबर, 2025 / 01 कार्तिक, 1947

हिमाचल प्रदेश सरकार

LABOUR EMPLOYMENT & OVERSEAS PLACEMENT DEPARTMENT

NOTIFICATION

Shimla-171 002, the 30th August, 2025

No. LEP-E/1/2024.—In exercise of the powers vested under section 17(1) of the Industrial Disputes Act, 1947, the Governor, Himachal Pradesh is pleased to order the publication of awards

157—राजपत्र / 2025—23—10—2025

(6811)

of the following cases announced by the **Presiding Judge, Labour Court-cum-Industrial Tribunal, Dharamshala, H.P.** on the website of the Printing & Stationery Department, Himachal Pradesh *i.e.* “e-Gazette”:

Sl. No.	Ref./ No.	Petitioner	Respondent	Date of Award/Order
1.	79/23	Attar Chand	The E.E. I&PH, Mandi	10-06-2025
2.	48/18	Jagdish Ram	M.D. H.P.Forest Dev. Corp.	12-06-2025
3.	87/22	Manoj Parmar	M.D. M/S Nayasa Multiplastic	23-06-2025
4.	115/16	Arif Khan	M.D. M/S GVK EMRI & Others	27-06-2025
5.	245/16	Prem Singh	M.D. M/S GVK EMRI & Other	27-06-2025
6.	67/23	Naseeb Chand	Principal DAV Public School	28-06-2025
7.	38/22	Ashok Kumar	B.M.O. Nadaun	28-06-2025
8.	32/22	Ashwani Kumar	The E.E. I&PH Nurpur	28-06-2025
9.	39/22	Rishu Kumar	The E.E. I&PH Nurpur	28-06-2025
10.	40/22	Ravinder Kumar	The E.E. I&PH Nurpur	28-06-2025
11.	41/22	Anil Kumar	The E.E. I&PH Nurpur	28-06-2025
12.	42/22	Parmesh Singh	The E.E. I&PH Nurpur	28-06-2025
13.	43/22	Rajesh Kumar	The E.E. I&PH Nurpur	28-06-2025

Note.—Following are the Awards for the month of June, 2025 along-with exhibits specifically cases of titled as Sect. Kamla Dials Vs. Factory Manager, M/S K.D.D.Ltd. (through e-mail) for publication in the Gazette (Rajpatra).

Sl. No.	Ref./ RBT No.	Petitioner	Respondent	Date of Award/Order
1.	70/19	Sect. Kamla Dials	Factory Manager, M/S K.D.D. Ltd.	16-06-2025
2.	67/19	-do-	-do-	16-06-2025
3.	65/19	-do-	-do-	16-06-2025
4.	71/19	-do-	-do-	16-06-2025
5.	68/19	-do-	-do-	16-06-2025
6.	69/19	-do-	-do-	16-06-2025
7.	72/19	-do-	-do-	16-06-2025
8.	66/19	-do-	M/S KDDC Ltd.	16-06-2025
9.	64/19	-do-	M/S K.D.D.C Ltd.	16-06-2025

By order,

(PRIYANKA BASU INGTY, IAS),
Secretary (Lab. Emp. & O.P.).

**IN THE COURT OF Sh.PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)
(CAMP AT MANDI)**

Reference No. : 79/2023
Date of Institution : 08-9-2023
Date of Decision : 10-06-2025

Shri Attar Chand s/o Shri Dola, r/o Village Jamu, P.O. Pandoh, Tehsil Sadar, District Mandi, H.P. ..Petitioner.

Versus

1. The Executive Engineer, I&PH Division Mandi, District Mandi, H.P. (Principal Employer).

2. Shri Pratap Singh, r/o Village Ghanghal, P.O. Mahadev, Thesil Sunder Nagar, District Mandi, H.P. (Contractor).

3. Shri Dharam Pal, r/o Village Chandeh, P.O. Kot Morse, Tehsil Sadar, District Mandi, H.P. (Contractor).

4. Sh. Kuldeep Singh, r/o VPO Pandoh, Tehsil Sadar, District Mandi, H.P. (Contractor).

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner	:	Petitioner in person
For the respondent no.1	:	Sh. B.C. Katoch, Ld. Dy. D.A.
For Respondent(s) 2 to 4	:	None

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Deputy Labour Commissioner:—

“Whether the termination of services of Shri Attar Chand s/o Shri Dola Ram, r/o Village Jamu, P.O. Pandoh, Tehsil Sadar, District Mandi, H.P. by (i) The Executive Engineer, Division Mandi, District Mandi, H.P. (Principal Employer), (ii) Shri Pratap Singh, r/o Village Ghanghal, P.O. Mahadev, Tehsil Sunder Nagar, District Mandi, H.P. (Contractor), (iii) Shri Dharam Pal, R/O Village Chandeh, P.O. Kot Morse, Tehsil Sadar, District Mandi, H.P. (Contractor), (iv) Shri Kuldeep Singh, r/o V.P.O. Pandoh, Tehsil Sadar, District Mandi, H.P. (Contractor) *w.e.f.* 01-07-2020, (as alleged by workman) without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employer(s)”.

2. The case was listed for appearance of petitioner as well as respondents no. 2 to 4. At this stage Shri Attar Chand (petitioner) vide separate statement on record the petitioner has stated that he does not want to pursue with the present reference *i.e.* Reference No.79/2023. In view of statement of petitioner, the present reference/claim of the petitioner is dismissed as withdrawn.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 10th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.
(Camp at Mandi).

**IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)
(CAMP AT BILASPUR)**

Reference No. : 48/2018
Date of Institution : 06-6-2018
Date of Decision : 12-06-2025

Shri Jagdish Ram s/o Shri Ram Dhan, r/o Village Sai Brahmna, P.O. Chharol, Tehsil Sadar,
District Bilaspur, H.P. ..*Petitioner.*

Versus

1. The Managing Director, Himachal Pradesh State Forest Corporation Limited,
Shimla, H.P.

2. The General Manager, Rosin & Turpentine Factory, Raghunathpura, Tehsil Sadar,
District Bilaspur, H.P. ..*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. B.S. Verma, Ld. Adv.
For the respondents : Sh. N.L. Thakur, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Deputy Labour Commissioner:—

“Whether the demand raised by Shri Jagdish Ram s/o Shri Ram Dhan, r/o Village Sai Brahmna, P.O. Chharol, Tehsil Sadar, District Bilaspur, H.P., before (1) The Managing Director, Himachal Pradesh State Forest Development Corporation Limited, Shimla, H.P.

(2) The General Manager, Rosin & Turpentine Factory, Raghunathpura, Tehsil Sadar, District Bilaspur, H.P. vide demand notice dated 02-04-2016 (Copy enclosed) regarding promoted as Skilled worker on the post of Distiller, as alleged by the workman, is maintainable, legal and justified? If not, what amount of financial, other service benefits the above worker is entitled to from the above employer/Management?"

2. The case was listed for petitioner's evidence. At this stage Shri Jagdish Ram (petitioner) vide separate statement on record has stated that in view of order of Hon'ble High Court of H.P. passed in CWP No.4793/2024 titled as Jagdish Ram vs. State of Himachal Pradesh and Others on 24-9-2024, he does not want to pursue with the present claim/reference.

3. In view of statement of petitioner, the present reference/claim of the petitioner is dismissed as withdrawn.

4. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 12th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.
(Camp at Bilaspur).

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Reference No. : 87/2022
Date of Institution : 03-3-2021
Date of Decision : 23-6-2025

Shri Manoj Parmar s/o Shri Balwan Singh Parmar, r/o House No.144A-1A, Shiwalik Avenue, Naya Nangal, Tehsil Nangal, District Ropar (Punjab) ..*Petitioner.*

Versus

The Managing Director, M/s Nayasa Multiplasts, VPO Bathri, Tehsil Haroli, District Una, H.P. ..*Respondent.*

Direct claim/Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Meenakshi Rana, Ld. Legal Aid Counsel

For the Respondent : Sh. N.L. Kaundal, Ld. AR

AWARD

This is a direct claim petition under Section 2-A Clause (2) read with Section 10 (1) of the Industrial Disputes Act, 1947. The petitioner has submitted in the claim petition that he joined service of respondent management on 7.4.2019 as unskilled mazdoor and met with accident on the same day while working on machine and lost his first finger of right hand. After accident he was taken to ESI hospital Chandigarh where he remained under treatment till 18.5.2020. On discharge he reported for duty on 18.5.2020 however he was told by factory management that factory has been closed due to Covid-19 during March, 2020 and thereafter not allowed to join his duty. He alleged that management had allowed fresher and juniors however he was told that there was no work for him. According to him he had completed 240 days of work during 12 calendar months preceding the date of his termination and he was not served with one month's notice nor he was paid one month's compensation in lieu of notice. He was also not paid retrenchment compensation payable under Section 25-F (b) of the Industrial Disputes Act, 1947. No charge sheet, inquiry and show cause notice was issued to him before effecting termination and thus process was not followed by respondent. His termination is against the provisions of natural justice and in violation contained under Industrial Employment Standing Order Act, 1946. Thereafter he tried his best to secure employment elsewhere but was facing unemployment till date. At the time of his termination he was drawing salary of Rs.6000/- per month. He has prayed that in view of his illegal termination he be held entitled to reinstatement along-with full back wages and with attendant benefits.

2. In reply to the claim petition preliminary objections qua maintainability, suppression of material facts, statement of claim being bad on account of non-joinder of necessary parties etc. have been raised. On merits, it is admitted that applicant joined the services *w.e.f.* 7.4.2019 however it is denied that he was engaged as unskilled mazdoor. Respondent has asserted that the petitioner was engaged as machine operator deployed to work on machine. He met with an accident on the same day while he was working on machine and lost his first finger of right hand. Thereafter the applicant was taken ESI Hospital Chandigarh. However it is admitted that he remained under treatment till 18.5.2020. The applicant had got treatment *w.e.f.* 8.4.2019 to 6.5.2019 from ESIC Hospital and was also granted accidental compensation for 29 days @ Rs.242/- per day and received total compensation amount of Rs.7018/- from ESIC. He presented fitness certificate and resumed the duty on 7.5.2019 and thereafter he intermittently worked till 7.11.2019. During this period petitioner absented himself from his duty number of times. Respondent also assert that *w.e.f.* 3.12.2019 the applicant abandoned the job at his own free will without any sanctioned leave from his HOD. Thereafter question of reporting of duty on 18.5.2020 did not arise. It is denied that the official of respondent company told that company has been closed due to Covid-19 in March, 2020. Medical Board of ESIC on 8.8.2020 assessed the degree of applicant permanent disability @13%. Respondent denied that management had allowed fresher and juniors to work with the respondent and assert that petitioner had actually abandoned the service. Respondent has also denied that petitioner worked for 240 days during 12 calendar months preceding the date of his alleged termination. According to respondents, the petitioner worked only for 178 days and thus the respondent did not need to comply with the provisions of Section 24-F (a), (b) and (c) of the Industrial Disputes Act. The applicant also met with road accident on 8.11.2019 regarding which he got compensation from ESIC period from 8.11.2019 to 22.11.2019 for 13 days @ Rs.173/- per day which comes to Rs. 2249/- and *w.e.f.* 23.11.2019 to 2.12.2019 the applicant again reported his duties and worked for 10 days. Thereafter applicant worked *w.e.f.* 3.12.2019 to 31.12.2019 on ESIC leave for 29 days and got compensation @ 173/- per day which comes to Rs. 5017/- and from 1.1.2020 to 18.2.2020 for 49 days @ 205 per day which comes to Rs.10,045/- and *w.e.f.* 19.2.2020 to 31.3.2020 for 42 days @ 234/- per day which comes to Rs. 9828/-. Thus the petitioner

has also received total compensation of Rs. 27,139/-. He was also getting permanent disability benefit. Respondent has submitted that petitioner has only worked intermittently with the respondent upto 2.12.2019 and thereafter abandoned the work hence keeping in view these facts he is not entitled to any relief claimed by him.

3. In rejoinder preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

4. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the act of termination of services of the petitioner by the respondent is violation of the provisions contained under Section 25-F of the Act, as alleged? ..*OPP.*
2. Whether the respondent has violated the provisions contained under Section 25-G and 25-H of the Act, as alleged? ..*OPP.*
3. If issues no.1 & 2 are proved in affirmative, to what relief, the petitioner is entitled to? ..*OPP.*
4. Whether the claim petition is not maintainable, as alleged? ..*OPP.*
5. Whether the petitioner has not come to this Court with clean hands and suppressed the material facts, as alleged. If so, its effect? ..*OPP.*
6. Whether the claim petition is bad on account of non-joinder of the necessary party, as alleged? ..*OPP.*
7. Whether the claim petition is infructuous, as alleged? ..*OPP.*
8. Relief.

5. In order to prove his case the petitioner has produced on record his affidavit Ext. PW1/A wherein he reiterated the fact stated in the petition. He has also produced certificate dated 8th December, 2020 Ext. PW1/B.

6. Respondent has examined Shri Nagender Singh, Plant Incharge, M/s Nayasa Multiplasts by way of affidavit Ext. RW1/A wherein he reiterated the facts mentioned in the reply. He has also produced on record copy of mandays of the petitioner Ext. RW1/B, copy of attendance register Ext. RW1/C, copy of letter dated 21.5.2021 Ext. RW1/D, copy of letter dated 27.8.2019 Ext. RW1/E and copy of mandays chart from April, 2019 to March, 2021 Ext. RW1/F.

7. I have heard the learned Counsel for the petitioner and learned AR for the respondent at length and records perused.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : No

Issue No. 2	:	Yes
Issue No. 3	:	Decided Accordingly
Issue No. 4	:	No
Issue No. 5	:	Partly yes
Issue No. 6	:	No
Issue No. 7	:	No
Relief	:	Claim petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES NO. 1

9. Petitioner has claimed that he was engaged by the respondent management on 7.4.2019 as unskilled mazdoor deputed to work on machine for production. He met with an accident on the same day while working on machine which resulted in loss of first finger of his right hand. According to him he remained under treatment at ESI Hospital Chandigarh and only reported for duty on 18.5.2020. Respondent management under the guise of closure of company due to Covid-19 did not allow him to join duty. He also claimed that he has completed 240 days during 12 calendar months preceding the date of his termination.

10. Respondent has admitted that the petitioner had joined service on 7.4.2010 and remained under treatment from 8.4.2019 to 8.5.2019. The respondent also assert that petitioner resumed his duty w.e.f. 9.5.2019 and worked upto 3.11.2019. It is alleged that thereafter the petitioner abandoned the job w.e.f. 3.12.2019. Thus according to respondent the petitioner has worked with the respondent only for 178 days during period from 7.4.2019 to 2.12.2019.

11. The cross-examination of petitioner in this regard is relevant. PW1 Shri Manoj Parmar has admitted that he remained at ESI medical leave w.e.f. 8.4.2019 to 8.5.2019. He admitted that he joined the work in the company w.e.f. 9.5.2019. He has denied that he remained absent without leave w.e.f. 3.11.2019 and has asserted that he has informed the respondent regarding fracture of his shoulder and remained on leave. He has admitted that application for leave was only for 22.11.2019 and 23.11.2019 he reported for work and company gave him work. He admitted that thereafter he worked till 1.12.2019. He thereafter remained ESI leave w.e.f. 3.12.2019 to 27.1.2020. He has admitted that he was paid salary for 178 days which was also credited in his bank account. He has specifically admitted that he had worked with the respondent for 178 days only. The above admission made by the petitioner shows that he had worked with the respondent company only for 178 days thus contention of having completed 240 days of work is falsified. It is thus proved from the evidence on record that petitioner having not completed 240 days of work preceding the date of alleged termination did not fall within the provisions of Section 25-F (b) of the Industrial Disputes Act, 1947. Accordingly petitioner is not entitled any relief and benefits under Section 25-F of the Industrial Disputes Act. The issue no.1 is accordingly decided in the favour of the respondent.

ISSUE NO.2

12. It is alleged by the petitioner that he was terminated by the respondent but in his cross-examination he admitted that his services were not terminated in writing. Respondent on the other hand has alleged that petitioner has left the work at his own free will but this fact is denied by the petitioner. The petitioner has alleged that he visited the company but he was asked to leave the precincts of the company. Respondent has failed to produce any notice or any other document whereby they had asked the petitioner to join his duty after alleged abandonment.

13. Petitioner has stated in his affidavit that the management had retained the workers junior to him which fact is relevant from the attendance sheet. It is also alleged that respondent allowed fresher to work in petitioner's place thus violating the provisions of Sections 25-G and 25-H of the Industrial Disputes Act. The said averment is not contravened in the cross-examination of petitioner nor in the statement of RW1 Shri Nagender Singh. The attendance sheet produced on the case file also shows that persons junior to petitioner were allowed to continue with the respondent and several persons have been appointed after terminating the petitioner. It is already discussed that respondent has failed to produce any documents to show that the petitioner has wilfully abandoned the service of respondent company. In these circumstances it is proved that the respondent has violated the provisions of Sections 25-G and 25-H of the Industrial Disputes Act. Issue no.2 is decided in the favour of petitioner.

ISSUE NO.3

14. While above issues it is clear that the petitioner is not entitled for benefits as consequence for violation of Section 25-F of the Industrial Disputes Act however respondent has clearly not complied with the provisions of Sections 25-G and 25-H of the Industrial Disputes Act. The petitioner in his cross-examination has admitted that presently he is getting Rs.20,000/- 22,000/- while working with some other company. In statement of RW1 Shri Nagender Singh he has mentioned that if the petitioner had regularly worked with the respondent company he would be entitled to Rs.15,000/- plus other financial benefits. It is established that petitioner is presently not unemployed. Petitioner is presently working in other company with better financial prospects. In these circumstances it would be in the interest of court not to direct the respondent to reinstate of petitioner however the petitioner is held entitled for lump sum compensation of Rs.50,000/- from the respondent on the ground of violation of the provisions of Sections 25-G and 25-H of the Industrial Disputes Act. Hence this issue is decided accordingly.

ISSUE NO.4

15. The maintainability of the claim was challenged by respondent primarily on the ground that petitioner had not completed 240 days of continuous work which fact is proved from the evidence on record. It is also established that respondent has violated the provisions of Sections 25-G and 25-H of the Industrial Disputes Act. Hence the claim of the petitioner is partly maintainable.

ISSUE NO.5

16. The petitioner while presenting the claim before this court had mentioned that he had completed 240 days of work however the facts contrary to the same emerged from the evidence on record. The contention of petitioner that respondent had violated the provisions of Sections 25-G and 25-H of the Industrial Disputes Act however is proved, hence the claim of the petitioner cannot be denied as a whole on the ground of suppression of material facts. Hence this issue is decided in the favour of the petitioner.

17. The onus of proving these issues was on the respondent. No particular oral or documentary evidence is produced on record nor established from the averments made with regard to issues no. 6 and 7, hence these issues are decided in the favour of the petitioner.

RELIEF

18. In view of my discussion on the issues nos. 1 to 7 above, the petitioner cannot be granted the relief of reinstatement, however, the petitioner is held entitled for lump sum compensation to the tune of Rs.50,000/- for the illegal termination of his services and violation of the provisions of Sections 25-G and 25-H of the Industrial Disputes Act, 1947. Parties are left to bear their costs.

19. The direct claim/reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.
(Camp at Bilaspur).

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Reference No. : 115/2016
Date of Institution : 04-3-2016
Date of Decision : 27-6-2025

Shri Arif Khan s/o Shri Bashir Mohammad, r/o Village Dhanju, P.O. Khushinagar, Tehsil Churah, District Chamba, H.P. *..Petitioner.*

Versus

1. The Employer/Managing Director, M/s GVK Emergency Management and Research Institute, Dharampur, District Solan, H.P. (Principal Employer)

2. The Managing Director, M/S Adecco Flexione Workforce Solutions Private Limited, C-127, Basement Level, Satguru Infotech, Phase-VIII, Industrial Area Mohali, Punjab (Contractor company).

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner(s) : Sh. Umesh Nath Dhiman, Ld. Adv.

For Respondent No.1 : Sh. N.L. Kaundal, Ld. AR
 : Sh. Vijay Kaundal, Ld. Adv.
 For Respondent No.2 : Already exparte

AWARD

The following industrial disputes have been received by this court for the purpose of adjudication from the appropriate authority/ Deputy Labour Commissioner.

“Whether termination of the services of Shri Arif Khan s/o Shri Bashir Mohammad, r/o Village Dhanju, P.O. Kushinagar, Tehsil Churah, District Chamba, H.P. w.e.f. 27-08-2013 by (i) the Employer/Managing Director, M/S GVK Emergency Management and Research Institute, Dharampur, District Solan, H.P. (Principal Employer) (ii) the Managing Director, M/S Adecco Flexione Workforce Solutions Private Limited, C-127, Basement Level, Satguru Infotech, Phase-VIII, Industrial Area Mohali, Punjab (Contractor Company), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The brief facts as stated in the claim petition are that the applicant was initially appointed as pilot/driver for a period of one year on contract basis w.e.f. 13.3.2011 to 13.3.2012 and was ordered to be posted with GVK EMRI Chamba. Thereafter his contract was renewed from time to time. It is asserted that the applicant had discharged his duties with full devotion and the applicant was awarded with certificate of appreciation by the respondents which was duly endorsed by the H.P. Govt. The work of applicant was marked in EMCARE (The Magazine) issued/published by the respondent no.1. The applicant had discharged his duties sincerely and faithfully and service of applicant was required by the respondents but the services of applicant were terminated without any reason and his contract was not renewed by the respondents. While terminating the services of the applicant person juniors to the applicant were retained and fresh persons engaged in violation of the provisions of Section 25-H of the Industrial Disputes Act. After the disengagement of the applicant the respondents have retained and engaged fresh person without giving an opportunity to the applicant for re-engagement. It is alleged that while disengaging the petitioner the respondents had not followed the provisions of Section 25-F of the Industrial Disputes Act which was illegal and void ab initio. It is asserted that the respondents had tried to take undue advantage of clause 1.1.1(a) of agreement in which the Government of HP/respondent no.2 agreed qua autonomy and operational freedom to the respondents with regard to selection, hiring, appraisals, transfers and termination/dismissal of staff from BIZ agencies, preparation of training procedures all employees of GVK EMRI HP would be appointed on contract and duration of contract not more than 5 years would be clearly mentioned so there was no long term obligation for employment. It is asserted that the respondent no.1 had not only acted in arbitrary manner but violated its own rules mentioned in 1.1.1 whereby it is specified that the services of employee shall be liable to be terminated by giving two months notice by the either side. It is asserted that act of respondent no.1 was punitive in nature and as such action on the part of the respondent no.1 was not sustainable in the eyes of law and the same had caused gross violation of the principles of natural justice. It is asserted that the services of applicant was permanent in nature as well as services of applicant as pilot were always and continuously required by the respondent no.1 but his services were terminated/dispensed with in gross violation of the provisions of Industrial Disputes Act, 1947. It is alleged that the act on the part of the respondents was wholly discriminatory, unconstitutional and violative of provisions of the Industrial Disputes Act and as such the termination of the services of applicant by the respondents deserves to be quashed and the applicant be held entitled to be reinstated as fleet pilot

along-with consequential benefits. It is prayed that the verbal disengagement in the month of July, 2014 by respondents may be quashed and the respondents may be directed to reinstate the applicant as pilot along-with all consequential benefits i.e. seniority, and arrears of pay/wages etc.

3. In reply to the claim petition on behalf of respondent no.1 preliminary objections qua maintainability, cause of action, locus standi and suppression of material facts have been raised. On merits, it is admitted that the State of Himachal Pradesh had started Emergency Medical Services with the intention to improve access to healthcare which was being provided to needy people in the entire state particularly in emergency situation to the general public and also provided emergency response No.108 for responding to medical police and emergency services. To achieve the said goal the Government of Himachal Pradesh and respondent no.1 entered a public private partnership agreement with GVK-EMIU wherein respondent no.1 was financed by the grant-in-aid released by the Government of H.P. It is submitted that there was change in mode of operation of NAS National Ambulance Service and thereafter mode of operation of NAS-108 ambulances from MOU mode to the tender mode to run and function of the NAS-108 ambulances was being governed by terms and conditions of the concession agreement as entered into between the parties on 16.11.2016. It is specifically denied that applicant was appointed as Pilot/Driver for a period of one year on contract initially w.e.f. 13.3.2011 to 13.3.2012 by the replying respondent no.1 and ordered to be posted with GVK EMRI Chamba. It is submitted that the said appointment was made by the respondent no.2 on its own payrolls being the contractor of respondent no.1. Thereafter the applicant/claimant was deputed with principal employer i.e. respondent no.1 at Chamba. The said appointment of applicant was contractual employment and was granted for fixed period by the respondent no.2 and he (applicant) was never the employee of the respondent no.1. The contract of applicant was not renewed from time to time by respondent no.1. It is submitted that the contract renewals were done by the contractor i.e. respondent no.2 on contractual basis for a fixed period. The applicant was awarded with certificate of appreciation in February, 2014 by respondent no.1 and the same was endorsed by the Govt. of H.P. and the work of the applicant was marked in EMCARE (The Magazine). It is submitted that the certificate of appreciation were given to most of employees to encourage them to do their duties diligently. Respondents have emphatically denied that the applicant always served the respondents and the public with devotion. It is also denied that the applicant had discharged his duties sincerely and faithfully. It is denied that the services of pilot/driver was required by replying respondent no.1. It is further denied that the contract of service of applicant was unreasonably ordered not to be renewed by replying respondent no.1. It is asserted that verbal termination of applicant was done by the respondent no.2 and respondent no.1 had no role in oral termination of the services of the applicant. Respondents denied that after verbal termination of the applicant, respondent no.1 had retained juniors and engaged fresh persons. It is asserted that the applicant was a contractual employee of the respondents no.2 and his services falls under the provisions of Section 2(oo) of the Industrial Disputes Act, 1947 hence question of violating Section 25-H of the Industrial Disputes Act does not arise at all. Other averments parawise made in the petition were denied and it is prayed that the claim deserves to be dismissed.

4. In reply to the claim petition on behalf of respondent no.2 preliminary objections qua maintainability, estoppel, suppression of material facts have been raised. It is asserted that replying respondent had provided about 555 workers to respondent no.1 i.e. GVK EMIR strictly as per their requirement and out of them about 535 are still working with the M/s GVK EMRI. It is further asserted that in accordance with the agreement for services executed between respondent no.1 and replying respondent no.2 was valid upto 31.8.2013. It is asserted that respondent no.1 had issued fresh appointment letter to the applicant in August, 2013. On merits, it is denied that the applicant was working with Adecco till August, 2013 as his project was completed on the said period and after August, 2013 onwards the services of the applicant were taken by the respondent no.1 on its roll. It is admitted that respondent no.1 is still providing 108 ambulance services in the

State of H.P. Other averments parawise made in the petition were denied and it is prayed that the claim deserves to be dismissed.

5. In the rejoinders preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

6. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the petitioner was illegally and unjustifiably terminated by the respondents w.e.f. 27.8.2013, as alleged. If so, its effect? ..*OPP.*
2. Whether the claim petition is not maintainable, as alleged? ..*OPR.*
3. Whether the petitioner has no locus standi to file the present case, as alleged? ..*OPR.*
4. Whether the petitioner has not come to the Court with clean hands and has suppressed the material facts, as alleged? ..*OPR.*

RELIEF

7. Petitioner Sh. Arif Khan in order to prove his case has produced on record his affidavit.

8. The respondent no. 1 has examined Shri Sachin Pathak, Assistant Manager GVK Emergency Management by way of affidavit RW1/A wherein he has reiterated the facts stated in the reply. He has also produced on record copy of agreement dated 9.7.2010 Ext. RW1/B, copy of agreement dated 10.8.2010 Ext.RW1/C and copy of certificate of registration dated 29.3.2012 Ext. RW1/D.

9. It is pertinent to mention here that the respondents no.2 was proceeded ex parte on 02.5.2025 as he failed to appear despite service.

10. I have heard the learned Counsel for all the parties at length and records perused.

11. For the reasons to be recorded hereinafter while discussing the points for determination, my findings thereon are as under:

Issue No.1	:	Partly Yes
Issue No.2	:	No
Issue No.3	:	No
Issue No.4	:	No
Issue No.5	:	No
Relief	:	Claim petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUE NO.1

12. Respondent no.1 had entered into contract with Govt. of H.P. for providing emergency ambulance service in the name of Atal Swasthya Seva (108) or National Ambulance service under public private partnership mode. The agreement is dated 9.7.2010 Ext. RW1/B duly produced on record. Respondent no.1 had entered into an agreement with respondents no.2 for hiring manpower and supply to run national ambulance service. Respondent no.1 also signed agreement of services Ext. RW1/C with respondents no.2. Respondent no.1 asserted in their reply vide clause (iv) of Ext. RW1/B there was operational freedom and autonomy to make independent decision in respect of employment of workforce, the said clause as is follows:—

“It is hereby agreed between the Parties that GVK EMRI shall form a sub-ordinate unit or division of GVK EMRI at the State level, a pure operational entity for operationalising the PPP in the State of Himachal Pradesh “GVK EMRI- Himachal Pradesh”, whose legal nature/structure shall be determined by GVK EMRI in consultation with State Government. GVK EMRI – Himachal Pradesh shall be solely responsible for the day to day operations and management of the ERS in the State. GVK EMRI- Himachal Pradesh shall have a separate bank account into which all funds towards grant in aid provided by the State Government shall be deposited and which shall be utilized solely for the State Operations. It is the intention of the Parties that GVK EMRI shall only be responsible for the overall supervision of the activities of GVK EMRI- Himachal Pradesh and that (i) all rights, duties and obligations of GVK EMRI specified under this Agreement and (ii) all contractual liabilities (personnel, monetary or otherwise) arising out of the operation and management of the ERS/the State Operations, shall solely vest in GVK EMRI-Himachal Pradesh. In short GVK EMRI-Himachal Pradesh is a vehicle which will help ring fence the operations of ERS in the State of Himachal Pradesh, an arrangement in the best interests of both the parties. GVK EMRI-Himachal Pradesh will take recourse to, contractual employment arrangement and or outsourcing of manpower services to run the ERS”.

It is however pertinent to mention clause 1.1.0 and clause 1.1.1 which reads as follows:—

“1.1.0. Provide Autonomy and Operational Freedom to GVK EMRI

1.1.1 Continue to recognize GVK EMRI as the State Level Nodal Agency to provide emergency response services across the State, in coordination with the public agencies, which will help drive greater transparency, agility, and better citizen service. GVK EMRI shall have the operational freedom and autonomy which includes among other things, the ability to make independent decisions in respect of the following:

- a) Selection, hiring, appraisals, transfers and termination/dismissal of staff, freedom to avail the staff from HR agencies, preparation of training procedures; all employees of GVK EMRI HP will be appointed on Contract and the duration of the Contract (not more than five years) will be clearly mentioned so that there is no long term obligation for employment. The Contract with the employees shall be liable to be terminated by giving two month’s notice by either side. The Contract with employees shall not exceed the term of this Agreement. The terms of the contracts for appointment will be finalized by the Executive Council constituted under the Clause 1.3.3 of this agreement.
- b) Processes and Procedures followed for provision of emergency response services;

- c) Infrastructure required for providing emergency response services;
- d) Re-appropriation of the budget within the overall operational expenditure provision;
- e) Promotional activities undertaken to create awareness;
- f) Proliferation of the best practices;
- g) Technology development and deployment;
- h) Design of ambulances and equipping them, as required:

Provided in the interest of transparent functioning, GVK EMRI, would furnish details pertaining to the above activities to the State Government if the latter party so requires, and can also suo-motu seek consultation of the State Government where needed in respect of 1.1.1 (b) to (h) above and in other matters of operation of ERS for improving the service quality.

1.1.2. Entrust GVK EMRI with the responsibility of operationalization of agreed number of ambulances from time to time, at the State Government's cost and expense, to meet the objectives of the ERS".

13. Respondent no.1 had also emphasized that vide clause B (iv) of the agreement dated 9.7.2010 Ext. RW1/B they were entitled to hire workforce from the contractor.

14. It is the primary defence of respondent no.1 is that being principal employer they are not liable to renew the agreement and claims of applicant and had no role in termination of the applicant who was employee of respondent no. 2 the contractor. On the other hand respondent no.2 in his reply have submitted that the contract of service of applicant was renewed by respondent no.1 August, 2013 as the contract between respondent no.1 and respondents no.2 stood terminated in August, 2013 however respondent no.1 had continued to provide service in the favour of the H.P. Government. In reply respondents no.2 has mentioned that respondent no.1 issued fresh appointment letter to applicant in August, 2013 and thus respondent no.2 is a misjoinder in this case.

15. Learned counsel for the petitioner has argued that the nature of agreement between respondent no.1 and respondent 2 was merely an arrangement to deprive the workers from the benefits of regular employees and was a sham agreement. The Hon'ble Supreme Court in **SAIL v. National Union Waterfront Workers, ("SAIL Judgment"), (2001) 7 SCC 1** has held as follows:—

"On issuance of prohibition notification under Section 10(1) of the CLRA prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is not found to be genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the concerned establishment."

16. The agreement Ext.RW1/C entered with regard to terms and conditions 9.3, 9.4 and 9.5 provides as follows:—

“9.3 In case GVK EMRI no longer requires the services of the any of the Associates, it shall give a notice of one month or pay Adecco Flexione a sum equal to emoluments of such Associate(s) for the notice period of one month. Subject to the notice period agreed, GVK EMRI shall be entitled to require Adecco Flexione to remove any Associate from the team of Associates providing Services, if in the reasonable opinion of GVK EMRI; such Associate is not performing at the optimum levels or not medically fit or not suitable for providing the service.

9.4. In the event that the GVK EMRI hires any Associate(s) who performed services for GVK EMRI under this Agreement, within a period of *one year from date of deployment of such Associate(s)*, it shall pay Adecco Felxione a sum equivalent to absorption fees mentioned in this Agreement.

9.5. During the term of the Agreement if GVK EMRI desires to reduce the number of Ambulances and/or Associates requirement, by 15% or more of the total strength in any given month, in such cases GVK EMRI shall give clear thirty (30) days notice to Adecco Flexione or pay an amount equal to thirty (30) days emoluments and service margins for such Associates in lieu of notice period”.

17. The agreement Ext. RW1/C vide the terms and conditions Clause 9.1 was valid for three years after 10.8.2010. The alleged verbal termination of the petitioner occurred on 27.8.2013. The agreement Ext. RW1/C was valid upto 10th August, 2013. Respondent no.1 had liability to overlook that respondent no.2 did follow the terms and conditions of agreement or provisions of other labour laws in respect of workforce being supplied by respondent 2. The terms of reference and the statement of petitioner alleged that he was terminated on 27.8.2013. Since the agreement between respondents no.1 and 2 was operative till 10.8.2013, the disengagement of petitioner was done subsequently. In cross-examination by learned counsel for respondent no.2 the petitioner also admitted that he was actually terminated in September, 2013 and paid salary of August, 2013. No documentary proof of such termination of petitioner in September, 2013 is however produced. The date of termination as mentioned in the reference is beyond the expiry of agreement Ext. RW1/C. Respondent no.1 has not expressly denied that petitioner was doing the work i.e. he was driving ambulance 108 in view of agreement between respondent no.1 and Government of H.P. Ext. RW1/B. Respondent’s witness RW1 Shri Sachin Pathak has insisted that petitioner was kept on job by respondent no.2. The Hon’ble Supreme Court in **Workmen of Nilgiri Coop. Mktg. Society Ltd. v. State of T.N., 2001 (7SCC) 1** has discussed test/factor which shall determine (sham arrangement) and whether employer and employee relationship exists between principal employer and contract labour as follows:-

“The Court held that several factors that would have a bearing on the issue, are:

- (a) Who is appointing authority;
- (b) Who is the pay master;
- (c) Who can dismiss;
- (d) How long alternative service lasts;
- (e) The extent of control and supervision;

- (f) The nature of the job, e.g. whether, it is professional or skilled work;
- (g) Nature of establishment;
- (h) The right to reject. In an earlier case, *Hussainbhai v. Alath Factory Thezhilali Union*, 37 it had been held as follows: “Where a worker or group of workers labour to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers’ subsistence, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex contractu is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though Sniped in different perfect paper arrangement, that the real employer is the Management, not the immediate contractor”

The tests for the determination of an employer and employee relationship in context of contract labour were also laid down in the decision of *National Airport Authority v. Bangalore Airport Service Coop. Society*, the excerpt of which is as follows:

“In order to determine whether the applicants were the workmen of the appellants and thus there was the relationship of employer and employee between the appellants and the applicants, both the Single Judge and the Labour Court should have considered, firstly, whether there was a contract of employment between the appellants and applicants. Secondly, whether the portorage service was incidental or integral part of the functions of the airport authorities.”

18. Petitioner has alleged that he was terminated verbally by respondents no.1 and 2 and there was non compliance of Clause 1.1.1. of agreement Ext. RW1/B. He was given Identity Card Mark-PX and appreciation letter Mark-PX2 and PX3 by the respondents. He admitted that appointment letter was not issued by GVK EMRI respondent no.1. He however insisted that he was terminated by respondents no.1 and 2. Petitioner admitted that he was employed by respondent no.1 in the cross-examination made learned counsel for respondent no.2. No doubt the letter of employment was issued by respondent no.2 but the agreement Ext. RW1/B and Ext. RW1/C are to be carefully perused. Clause C (iv) of the agreement Ext. RW1/B reads as follows:—

“It is hereby agreed between the Parties that GVK EMRI shall form a sub-ordinate unit or division of GVK EMRI at the State level, a pure operational entity for operationalising the PPP in the State of Himachal Pradesh “GVK EMRI— Himachal Pradesh”, whose legal nature/structure shall be determined by GVK EMRI in consultation with State Government. GVK EMRI – Himachal Pradesh shall be solely responsible for the day to day operations and management of the ERS in the State. GVK EMRI— Himachal Pradesh shall have a separate bank account into which all funds towards grant in aid provided by the State Government shall be deposited and which shall be utilized solely for the State Operations. It is the intention of the Parties that GVK EMRI shall only be responsible for the overall supervision of the activities of GVK EMRI— Himachal Pradesh and that (i) all rights, duties and obligations of GVK EMRI specified under this Agreement and (ii) all contractual liabilities (personnel, monetary or otherwise) arising out of the operation and management of the ERS/the State Operations, shall solely vest in GVK EMRI-Himachal Pradesh. In short GVK EMRI—Himachal Pradesh is a vehicle which will help ring fence the operations of ERS in the State of Himachal Pradesh, an arrangement in the best interests of both the parties. GVK EMRI-Himachal Pradesh will take recourse to, contractual employment arrangement and or outsourcing of manpower services to run the ERS”.

19. Thus clause implies that operation and Management of Emergency Response Service was under the control of the GVK EMRI and they could hire contractual employment and outsource manpower to carry out the service of ERS. The overall day to day supervision, control and management of ERS was allocated to respondent no. 1. Similar Clause 2 of agreement Ext. RW1/C i.e. 2.1 and 2.2. are as follows:—

“2.1. Adecco Flexion shall deploy and migrate the manpower resources as per the requirement of the GVK EMRI for the Ambulance support services, to work under the functional control and supervision of GVK EMRI, at the location as specified by GVK EMRI on a 24x7 basis round the year without any interruption, providing efficient pre-hospital care.

2.2. Adecco Flexione shall source the Associates as required by GVK EMRI from time to time. GVK EMRI reserves the right to change the Scope of Service (“SOS”) at any time during the term of the Agreement with consent of Adecco Flexione and Adecco Flexione agrees to abide by the changed SOS, such changes to be agreed in writing. The detailed Scope of the service is given at Schedule-1”.

20. This agreement also exhibited that functional control and supervision of the manpower actually rested with the respondent no.1 and role of respondent no. 2 was merely supply of manpower as required by respondent no.1 from time to time.

21. The above evidence reveals that respondent no. 1 had undertaken operation and maintenance of 108 ambulance belonging to respondent no. 1 i.e. H.P. Government. Thereafter respondent no. 1 entered into an agreement with respondent no. 2 for supply of labour. The training and day to day employment control was actually with respondent no. 1. Respondent no. 1 also had the responsibility of operation and maintenance of 108 ambulance provided by Government of H.P. for a specified period in terms of agreement between them.

22. The manpower were supplied by respondent no.2 but the services of petitioner were orally dispensed with by respondent no. 1. Respondent no.1 being principal employer was also under an obligation to overlook that no labour laws were violated even when the workman of contract labour are retrenched subsequent to the termination of contract period or otherwise. The evidence on record also shows that respondent 2 had no role to play in any supervision, control and management of the operations of 108 ambulance, a role which was specifically given to respondent no.1. This implies that engagement of labour through contract was a sham agreement to escape security of service under the Industrial Disputes Act and other labour laws. No doubt respondent no.1 was the principal employer but contract of engagement of labour Ext. RW1/B and Ext. RW1/C was not implemented even on termination of applicant and the bulk of evidence points towards the employer employee relationship between the respondent no.1 and petitioner also. Respondent no.1 has denied that petitioner was appointed by respondent no.2 but had admitted that he was appointed on contract basis from March, 2011 to August, 2013. The factum of continuous employment of the petitioner is also not disputed by respondent no.2 who have not produced any evidence in support of their pleadings. Thus it is proved from the evidence on the case file that the petitioner had completed one year of continuous service preceding the date of his termination.

23. There is nothing on record to show that compliance of Section 25 Clause F of the Industrial Disputes Act, 1947 was done before termination of the services of the petitioner either by respondent no.1 and/or respondent no. 2. Accordingly it is held that termination of the services of petitioner was carried out by respondent no.1 and respondent no.2 in violation of the provisions of the Industrial Disputes Act.

24. During course of adjudication of the present reference it has transpired that Agreement between respondent no.1 and State has ended w.e.f. 15.01.2022. The evidence on record also proves that termination of the services of the petitioner was in violation of the Industrial Disputes Act. Hence considering the overall circumstances of this case the petitioner is held entitled of compensation of Rs.1 lakh from respondent no.1 along-with interest @ 6% from the date of termination till the date of realization. Petitioner is also entitled Rs.1 lakh from respondent no.2 along-with interest @ 6% from the date of termination till its realization hence issue no.1 is partly decided in the favour of the petitioner.

ISSUE NO. 2

25. The maintainability of the claim petition was primarily challenged on the ground that petitioner was merely an employee of respondent no.2. The liability of respondent no.1 is however evident from the oral as well as documentary evidence and agreements produced before this court hence the claim petition is maintainable and against respondent no.1 as well as respondent no. 2.

ISSUES NO. 3 AND 4

26. The onus of proving these issues was on the respondents. The respondents claimed that petitioner had no locus standi and estopped to file the claim as he is not entitled the benefits of provisions of the Industrial Disputes Act. Accordingly issues no.3 and 4 are decided in the favour of the petitioner.

ISSUE NO. 5

27. The onus of proving this issue was on the respondent. The evidence on record does not specifically show which material facts have been suppressed on behalf of the petitioner hence this issue is also decided in the favour of the petitioner.

RELIEF

28. In view of my discussion on the issues above, the claim petition succeeds and is partly allowed. The petitioner is held entitled of compensation of Rs.1 lakh from respondent no.1 along-with interest @ 6% from the date of termination till the date of realization. The petitioner is also entitled Rs.1 lakh from respondent no.2 along-with interest @ 6% from the date of termination till its realization. Parties are left to bear their costs.

29. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 27th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Reference No. : 245/2016
 Date of Institution : 24-4-2016
 Date of Decision : 27-6-2025

Shri Prem Singh s/o Shri Gian Singh, r/o Village Kiani, P.O. Kalhel, Tehsil Churah, District Chamba, H.P.*Petitioner.*

Versus

1. The Employer/Managing Director, M/s GVK Emergency Management and Research Institute, Dharampur, District Solan, H.P. (Principal Employer).

2. The Managing Director, M/S Adecco Flexione Workforce Solutions Private Limited, C-127, Basement Level, Satguru Infotech, Phase-VIII, Industrial Area Mohali, Punjab (Contractor company).

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner(s) : Sh. Umesh Nath Dhiman, Ld. Adv.
 For Respondent No.1 : Sh. N.L. Kaundal, Ld. AR
 : Sh. Vijay Kaundal, Ld. Adv.
 For Respondent No.2 : Already exparte

AWARD

The following industrial disputes have been received by this court for the purpose of adjudication from the appropriate authority/ Deputy Labour Commissioner:—

“Whether termination of the services of Shri Prem Singh s/o Shri Gian Singh, r/o Village Kiani, P.O. Kalhel, Tehsil Churah, District Chamba, H.P. w.e.f. 2.7.2015 by (i) the Employer/Managing Director, M/S GVK Emergency Management and Research Institute, Dharampur, District Solan, H.P. (Principal Employer) (ii) the Managing Director, M/S Adecco Flexione Workforce Solutions Private Limited, C-127, Basement Level, Satguru Infotech, Phase-VIII, Industrial Area Mohali, Punjab (Contractor Company), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The brief facts as stated in the claim petition are that the applicant was initially appointed as pilot/driver for a period of one year on contract basis w.e.f. 18.2.2011 to 18.2.2012 and was ordered to be posted with GVK EMRI Chamba. Thereafter his contract was renewed from time to time. It is asserted that the applicant had discharged his duties with full devotion and the applicant was awarded with certificate of appreciation by the respondents which was duly endorsed by the H.P. Govt. The work of applicant was marked in EMCARE (The Magazine) issued/published

by the respondent no.1. The applicant had discharged his duties sincerely and with full devotion and as matter of record he (petitioner) was promoted as Fleet Pilot in the month of September, 2013 by the respondents and he was sent for two days training at Kamla Coach Works Pvt. Ltd. It is asserted that petitioner had discharged his duties sincerely and faithfully and service of applicant was required by the respondent no.1 but without any reason his contract was not renewed. While terminating the services of the applicant person juniors to the applicant were retained and fresh persons engaged in violation of the provisions of Section 25-H of the Industrial Disputes Act. After the disengagement of the applicant the respondents have retained and engaged fresh person without giving an opportunity to the applicant for re-engagement. It is alleged that while disengaging the petitioner the respondents had not followed the provisions of Section 25-F of the Industrial Disputes Act which act was illegal and void ab initio. It is asserted that the respondents had tried to take undue advantage of clause 1.1.1(a) of agreement in which the Government of HP/respondent no.2 agreed qua autonomy and operational freedom to the respondents with regard to selection, hiring, appraisals, transfers and termination/dismissal of staff from BIZ agencies, preparation of training procedures all employees of GVK EMRI HP would be appointed on contract and duration of contract not more than 5 years would be clearly mentioned so there was no long term obligation for employment. It is asserted that the respondent no.1 had not only acted in arbitrary manner but violated its own rules mentioned in clause 1.1.1 whereby it is specified that the services of employee shall be liable to be terminated by giving two months notice by the either side. Act of respondent no.1 was punitive in nature and as such action on the part of the respondent no.1 was not sustainable in the eyes of law and the same had caused gross violation of the principles of natural justice. It is asserted that the services of applicant was permanent in nature as well as services of applicant as pilot were always and continuously required by the respondent no.1 but his services were terminated/dispensed with in gross violation of the provisions of Industrial Disputes Act, 1947. It is alleged that the act on the part of the respondents was wholly discriminatory, unconstitutional and violative of provisions of the Industrial Disputes Act and as such the termination of the services of applicant by the respondents deserves to be quashed and the applicant be held entitled to be reinstated as fleet pilot along-with consequential benefits. It is prayed that the verbal disengagement in the month of July, 2014 by respondents may be quashed and the respondents may be directed to reinstate the applicant as pilot along-with all consequential benefits *i.e.* seniority, and arrears of pay/wages etc.

3. In reply to the claim petition on behalf of respondent no.1 preliminary objections qua maintainability, cause of action, locus standi and suppression of material facts have been raised. On merits, it is admitted that the State of Himachal Pradesh had started Emergency Medical Services with the intention to improve access to healthcare which was being provided to needy people in the entire state particularly in emergency situation to the general public and also provided emergency response No. 108 for responding to medical police and emergency services. To achieve the said goal the Government of Himachal Pradesh and respondent no. 1 entered a public private partnership agreement with GVK-EMIU wherein respondent no.1 was financed by the grant-in-aid released by the Government of H.P. It is submitted that there was change in mode of operation of NAS National Ambulance Service and thereafter mode of operation of NAS-108 ambulances from MOU mode to the tender mode to run and function of the NAS-108 ambulances was being governed by terms and conditions of the concession agreement as entered into between the parties on 16.11.2016. It is specifically denied that applicant was appointed as Pilot/Driver for a period of one year on contract initially w.e.f. 18.2.2011 to 18.2.2012 by the replying respondent no.1 and ordered to be posted with GVK EMRI Chamba. It is submitted that the said appointment was made by the respondent no.2 on its own payrolls being the contractor of respondent no.1. Thereafter the applicant/claimant was deputed with principal employer *i.e.* respondent no.1 at Chamba. The said appointment of applicant was on contractual employment and was granted for fixed period by the respondent no.2 and he (applicant) was never the employee of the respondent no.1. The contract of applicant was not renewed from time to time by respondent no. 1. It is submitted that the contract

renewals were done by the contractor i.e. respondent no. 2 on contractual basis for a fixed period. The applicant was awarded with certificate of appreciation in February, 2014 by respondent no.1 and the same was endorsed by the Govt. of H.P. and the work of the applicant was marked in EMCARE (The Magazine). It is submitted that the certificate of appreciation were given to most of employees to encourage them to do their duties diligently. Respondents have emphatically denied that the applicant always served the respondents and the public with devotion. It is also denied that the applicant had discharged his duties sincerely and faithfully. It is denied that the services of pilot/driver was required by replying respondent no.1. It is further denied that the contract of service of applicant was unreasonably ordered not to be renewed. It is asserted that claimant/applicant was never retrenched from service but his term of contractual appointment was discontinued. It is asserted that verbal termination of applicant was done by the respondent no.2 and respondent no.1 had no role in oral termination of the services of the applicant. Respondents denied that after verbal termination of the applicant, respondent no.1 had retained juniors and engaged fresh persons. It is asserted that the applicant was a contractual employee of the respondents no.2 and his services falls under the provisions of Section 2(oo) of the Industrial Disputes Act, 1947 hence question of violating Section 25-H of the Industrial Disputes Act does not arise at all. Other averments parawise made in the petition were denied and it is prayed that the claim deserves to be dismissed.

4. In reply to the claim petition on behalf of respondent no.2 preliminary objections qua maintainability, estoppel, suppression of material facts have been raised. It is asserted that replying respondent had provided about 555 workers to respondent no.1 i.e. GVK EMIR strictly as per their requirement and out of them about 535 are still working with the M/s GVK EMRI. It is further asserted that in accordance with the agreement for services executed between respondent no.1 and replying respondent no.2 was valid upto 31.8.2013. It is asserted that respondent no.1 had issued fresh appointment letter to the applicant in August, 2013. On merits, it is denied that the applicant was working with Adecco till August, 2013 as his project was completed on the said period and after August, 2013 onwards the services of the applicant were taken by the respondent no.1 on its roll. It is submitted that respondent no.1 is still providing 108 ambulance services in the State of H.P. Other averments parawise made in the petition were denied and it is prayed that the claim deserves to be dismissed.

5. In the rejoinders preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

6. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the petitioner was illegally and unjustifiably terminated by the respondents w.e.f. 2.7.2015, as alleged. If so, its effect? ..*OPP.*
2. Whether the claim petition is not maintainable, as alleged? ..*OPR.*
3. Whether the petitioner has no locus standi to file the present case, as alleged? ..*OPR1.*
4. Whether the petitioner is estopped to file the present claim by his act and conduct, as alleged? ..*OPR2.*
5. Whether the petitioner has not come to the Court with clean hands and has suppressed the material facts, as alleged? ..*OPR.*

RELIEF

7. Petitioner Sh. Prem Singh in order to prove his case has produced on record affidavit. He has also produced on record copy of letter of appointment Mark P-1, copy of extension of contract Mark-P-2 and copies of appreciation letters Mark-P-3 and P-4.

8. The respondent no.1 has examined Shri Sachin Pathak, Assistant Manager GVK Emergency Management by way of affidavit RW1/A wherein he has reiterated the facts stated in the reply. He has also produced on record copy of agreement dated 9.7.2010 Ext. RW1/B, copy of agreement dated 10.8.2010 Ext.RW1/C, copy of certificate of registration dated 29.3.2012 Ext. RW1/D and copy of letter dated 2.7.2015 Ext. RW1/E.

9. It is pertinent to mention here that the respondents no.2 was proceeded ex parte on 02.5.2025 as he failed to appear despite service.

10. I have heard the learned Counsel for all the parties at length and records perused.

11. For the reasons to be recorded hereinafter while discussing the points for determination, my findings thereon are as under:

Issue No.1	:	Partly Yes
Issue No.2	:	No
Issue No.3	:	No
Issue No.4	:	No
Issue No.5	:	No
Relief	:	Claim petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS**ISSUE NO.1**

12. The petitioner has alleged that he was engaged as a driver on contract initially w.e.f. 18.2.2011 to 18.2.2012 and posted with GVK EMRI Chamba. The oral contract of petitioner was renewed from time to time. He was also promoted as fleet pilot in September, 2013. His disengagement on 2.7.2015 was wrong and illegal and he also alleged that while terminating his services respondent no.1 violated the provisions of Clause 1.1.1 of the agreement entered between respondent no.1 and State Government in order to run the emergency health services. Petitioner has alleged that respondent no.1 has taken undue advantage of Clause 1.1.0 of the said agreement. He also alleged that two months notice as per agreement was not issued before his disengagement. Respondent's case is that the petitioner was appointed by respondent no.2 worked as pilot/driver in Chamba from August, 2013. During this period labour laws were complied with respondent no.1 was actually the employer of petitioner, after the agreement to provide manpower/contractual labourer with respondent no.2 came to an end. The petitioner was engaged by respondent no.1 on fixed term employment vide letter dated 22.6.2013 upto 21.8.2014. The fixed term employment was discontinued vide letter dated 2.7.2015 w.e.f. 6.7.2015. The petitioner was appointed on fixed

term contract as per the contract/appointment letter was duly signed by the petitioner. The petitioner was disengaged after completion of fixed term of contract and hence his case did not fall within the definition of retrenchment under Section 2 (oo) of the Industrial Disputes Act. Thus according to respondent no.1 the services of the petitioner were not retrenched or dispensed with in accordance with all terms of employment/appointment. The letter of appointment dated 18.2.2011 is Mark-P1 and extension of contract period is Mark-P2. These documents show that initially petitioner was appointed through respondent no.2 upto August, 2013. On 22nd August, 2013 the letter of appointment Ext. R1 was issued by respondent no.1. Respondent no.1 had offered a term of employment for one year upto 21st August, 2014. The said contract was extended vide letter Ext. R2 upto 21st August, 2015. The discontinuation of the fixed term contract employment was carried out vide letter Ext. RW1/E. Respondent no.1 also asserted that full and final settlement amount vide Ext. RW1/F was duly paid to the petitioner. The above evidence reveals that at the time of disengagement of petitioner on 22.7.2015 the petitioner was actually under contractual employment of respondent no.1 and hence respondent no.2 had no role to play in his termination.

13. Petitioner has admitted his signatures on appointment letter Ext. R1 vide which he was engaged on one year contract. He admitted that this contract was renewed vide Ext. R2. The petitioner also admits that as per terms and conditions of Ext. R1 his services could be dispensed with one year. He denied that vide letter dated 21.7.2015 his fixed term contract employment was ended by respondent no.1. He has denied that he was paid notice pay and his full and final payment. He denied receiving the letter dated 2.7.2015.

14. RW1 Shri Sachin Pathak has asserted that petitioner was disengaged on completion of fixed term employment and letter Ext. RW1/E was issued to the petitioner. He admits that there is no postal receipt or receiving on record to show that the above letter was actually delivered to the petitioner or was received by him. There is no other document except Ext. RW1/F to show that full and final payment was made to the petitioner. RW1 Shri Sachin Pathak also admits that there is no stamp or letter number or sign of any authority, on the document Ext. RW1/F. He states that money was deposited in the account of petitioner but no documentary evidence of such credit of amount in the account of the petitioner is produced by respondent. The full and final settlement calculation Ext. RW1/F is merely a copy of calculation dues but in the light of denial of receipt of photocopy of calculation dues by the petitioner the respondent no.1 has failed to prove that notice Ext. RW1/E or dues calculated vide Ext. RW1/F were duly received by the petitioner. Thus there is an equal possibility of said document being procured later on.

15. The evidence on record shows that the services of petitioner were terminated on 2.7.2015 even when his contract had been extended from 22.8.2014 to 21.8.2015 vide Ext. R2. Thus as per terms of agreement Ext. RW1/B and in compliance of Section 25-F of Industrial Disputes Act prior notice and salary in lieu of notice was mandatory. There is no evidence to show that discontinuation of the services of petitioner was carried out after notice duly served upon him or that benefits calculating by respondent no.1 had actually been deposited in the account of petitioner. The contention of the petitioner that his services were discontinued in violation of the provisions of Section 25-F of the Industrial Disputes Act is vindicated from the evidence on record accordingly it is held that petitioner's services were illegally and unjustifiably terminated by respondents. It is pertinent to mention that the contract between respondent no.2 and Govt. of H.P. has ended in the year 2022. In these circumstances the relief of reinstatement cannot be granted in the favour of the petitioner however he is held entitled for compensation of Rs.1 lakh to be paid by respondent no.1 along-with interest @ 6% from the date of termination. Accordingly issue no.1 is decided in the favour of the petitioner.

16. The onus of proving these issues was on the respondents. Though respondents have challenged the locus standi to file the present claim alleging that he was disengaged from his service in accordance with the provisions of law however the contrary facts appeared from the evidence on record, hence claim petition is maintainable. Nothing appears from the evidence is estopped to file the claim by his act and conduct or suppressed the material facts hence issues no. 2 to 5 are decided in the favour of petitioner.

RELIEF

17. In view of my discussion on the issues no. 1 to 5 above, the relief of reinstatement cannot be granted in the favour of the petitioner however he is held entitled for compensation of Rs.1 lakh to be paid by respondent no.1 along-with interest @ 6% from the date of termination till its realization. Parties are left to bear their costs.

18. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 27th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 67/2023
Date of Institution : 20-6-2023
Date of Decision : 28-6-2025

Shri Naseeb Chand s/o Shri Karam Chand, r/o Village Chakwan, P.O. Dhagwar, Tehsil Dharamshala, H.P. *..Petitioner.*

Versus

1. The President/Secretary, DAV Managing Committee, Chitragupta Road, Paharganj, New Delhi-110055.

2. The Principal, DAV Public School, Tiara, P.O. Tiara, Tehsil & District Kangra, H.P.

Direct Claim petition under Section 10 read with Section 2(A) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. N.L. Kaundal, Ld. AR
: Sh. Vijay Kaundal, Ld. Adv.

: Sh. Rajat Chaudhary, Ld. Adv.

For the Respondent : Sh. Rahul Sharma, Ld. Adv.

AWARD

This is a direct claim petition under Section 10 read with Section 2-A Clause (2) of the Industrial Disputes Act, 1947. The brief facts as stated in the claim petition are that the services of applicant/workman were appointed by the Principal, DAV Public School, Tiara in the capacity of driver/peon without any appointment letter in the year 2008. He discharged 13 years of continuous service in this capacity till 30.3.2020. On 1.4.2020 he was not allowed to resume his duties. He alleges that his services were unlawfully terminated by Principal, DAV Public School, Tiara without any prior show cause notice, charge sheet or as per rule and bye laws of DAV institutions against any alleged misconduct. According to applicant his work and conduct was fully satisfactory and upto the mark. He had not given any chance of any complaint to his superior as well as principal of institution. He was never issued any show cause notice, charge sheet neither any inquiry was conducted against him thus his termination was in violation of the Standing Orders of institution as well as Section 25-F (a) and (b) of the Industrial Disputes Act, 1947. He alleges that management has violated the provisions of the Act along with the basic principles of natural justice and his termination is liable to be declared as null and void. He also alleges that persons junior to him were retained in services continuously by the management Principal, DAV Public School, Tiara in violation of the provisions of Section 25-G of the Industrial Disputes Act and new recruitment to the post of drivers were also conducted after 1.4.2020 without giving him (petitioner) an opportunity of re-employment thus respondents violated the provisions of Sections 25-H of the Industrial Disputes Act. It is alleged by the petitioner that on 1.4.2020 he was called by the Principal, DAV Public School, Tiara and asked to join on outsource basis in accordance with the instructions of respondent no.1. He refused to join on outsource basis and insisted that he should be regularized. As a result of the above his services were terminated and he was asked not to come on his duty w.e.f. 1.4.2020. He has alleged that the act of respondents in terminating his service without complying with the procedure is unjustified, arbitrary, unconstitutional and against the basic provisions of the Industrial Disputes Act. He had issued demand notice dated 15.2.2022 through registered post which was also forwarded to Labour-cum-Conciliation Officer Kangra at Dharamshala. The Conciliation Officer started the conciliation proceedings and fixed the hearings from time to time. Respondent no.2 had also filed reply to the demand notice. The conciliation remained pending before Labour-cum-Conciliation Officer at Dharamshala and accordingly the petitioner filed direct claim before this court. The petitioner has prayed that the claim petition may be allowed and his termination dated 1.4.2020 may be declared as illegal and arbitrary and against the provisions of law. He has prayed that he be reinstated in the capacity of driver-cum-peon with full back wages, seniority and continuity and other consequential benefits till the date of his reinstatement.

2. In joint reply to the claim petition on behalf of respondents no.1 and 2 it is admitted that the petitioner was engaged by respondent no.2 in the capacity of driver in the year 2008 however on temporary basis for smooth plying of school vehicle. It is alleged that petitioner was negligent in driving in the school vehicle and he caused the accident of school vehicle No.HP39D 3349 resulting in bodily injuries as well as loss to the vehicle. He was also challaned for over speeding, drunk and dangerous driving on 3.8.2016. Respondents have alleged that the work and conduct of applicant was not satisfactory and upto the mark. In their reply before Labour Officer Dharamshala respondents have mentioned the misconduct of the applicant and also that he was warned many times by respondents to refrain from such driving behaviour as life of children studying at school was on risk. The due notice was served on the part of the school to the petitioner on 31.3.2020 and relieving notice vide reference no.DAV/PST/2308 was also served to the

applicant regarding relieving from the services which was temporary/adhoc only upto 31.3.2019. Other averments and allegations made in the petition have been denied and it is prayed that petition deserves to be dismissed.

3. In rejoinder preliminary objections were denied facts stated in the petition are reasserted and reaffirmed. It is also denied that respondents had served any relieving notice on the petitioner.

4. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:-

1. Whether the act of termination of services of the petitioner w.e.f. 01.4.2020 by the respondents is/was illegal and unjustified, as alleged? ..*OPP.*
2. If issues no.1 is proved in affirmative, to what relief, the petitioner is entitled to? ..*OPP.*
3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*
4. Relief.

5. In order to prove his case the petitioner has produced on record his affidavit PW-1 and demand notice Ext. P-1 and reply to demand notice Ext.P-2. Petitioner also examined Shri Rakesh Kumar, Dealing Clerk in the office of DAV Sr. Secondary School, Tiara as PW2 who has brought on record service by laws Ext. PW2/A, list of employees Ext. PW2/B, salary paid/paid days of petitioner Ext. PW2/C, payment register Ext. PW2/D and stated that the school does not possess certified standing orders.

6. Respondent has examined Smt. Ekta, Principal DAV Public School, Tiara by way of affidavit Ext. RW1/A wherein she reiterated the facts mentioned in the reply. She has also produced on record copy of challan dated 3.8.2020 Ext. RW1/B.

7. I have heard the learned Counsel for the petitioner and learned AR for the respondent at length and records perused.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No.1	:	Yes
Issue No.2	:	Decided accordingly
Issue No.3	:	No
Relief.	:	Claim petition is partly allowed allowed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES NO.

9. Petitioner has alleged in the affidavit that he was appointed as driver-cum-peon by the respondent no.2 in the year 2008 and he continuously worked upto 30.3.2020. The principal of

respondent school had called him to his office and informed that his services were no more required after 1.4.2020. He has completed 240 days of service and worked uninterruptedly for 13 years. He was not paid any compensation nor any notice was issued before his termination. He was not issued any show cause notice neither any inquiry was conducted by the respondent regarding alleged misconduct.

10. Petitioner also submitted that respondent no.2 had informed him that as per instructions of respondent no.1 non teaching staff was to be appointed on outsource basis and he was also asked to join on outsource basis which he declined. Petitioner was demanding his regularization after 13 years of services as a consequence of which his service was terminated, stating that his service was no more required. Petitioner has further alleged that person junior to him were retained by the respondent and the respondent had no right to change the service conditions of the petitioner by asking him to join on outsource basis. It is alleged by the petitioner that he was asked to join on outsource basis in order to affect his claim of regularization. He also alleges that after his termination new person were appointed without affording him an opportunity to rejoin his services.

11. RW1 Smt. Ekta, Principal, DAV Sr. Secondary School, Tiara has however alleged that the petitioner was negligent in driving the school vehicle and he also caused accident of school vehicle/car on 11th December, 2018 bearing no. HP39D 3349. This accident resulted in bodily injuries and loss of vehicle. She also alleges that the petitioner was challaned for over speeding, drunk and dangerous driving on 3rd August, 2016. In the light of Hon'ble Supreme Court guidelines regarding challan of plying school vehicles he could not be employed any further. She has deposed that petitioner was asked many times to restrain from such driving behaviour as the life of children studying at school was at risk. A notice dated 31st March, 2020 was served on him which was signed by him. She further alleges that on the basis of guidelines issued by Hon'ble Supreme Court specific instructions were given to the Principal by respondent no.1 to engage the employees through outsource agencies. Recruitment of driver was hence through outsource agency and there was no violation of provisions of Sections 25-F and 25-G of the Industrial Disputes Act.

12. Section 2(oo) of the Industrial Disputes Act, 1947 defines retrenchment as follows:—
(oo)["retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include - *[Inserted by Act 43 of 1953, Section 2 (w.e.f. 24.10.1953).]*

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or]”

13. It is the contention of the petitioner that he was employed in the respondent school from year 2008 continuously uninterruptedly till 2020. He has also stated that he had completed 240 days of continuous service before his alleged termination. In this regard it is important to peruse cross-examination of RW1 Smt. Ekta. She has admitted that the academic session of the school is from 1st April to 31st March. She admits that petitioner had worked throughout academic session. She admitted that petitioner worked whole of academic session in each year and completed 240 days in each calendar year. Though she has submitted that petitioner was relieved after contractual period however it is clear from her deposition that petitioner had continuously worked for 240 days in each calendar year including 12 calendar months preceding the date of his alleged termination. RW1 has further stated that the petitioner left the service at his own however she admits that after 1.7.2020 they had not issued any notice to the petitioner regarding abandonment of

his services. She also admits that outsource employment was started from April, 2020. It is pertinent to mention here that though it is the contention of respondent that petitioner was terminated w.e.f. 1.4.2020 the documents Ext. PW1/C i.e. salary paid w.e.f. December, 2008 to 31.3.2020 to the petitioner shows that salary for 30.6.2020 has been paid to the petitioner. This fact is also evident from the detailed salary bills throughout the services tenure of the petitioner. She has admitted in her cross-examination that the petitioner was asked to work on outsource basis which he refused. She has admitted that petitioner was working under the direct control and supervision of the management. In accordance with the provisions of Section 2 (oo) of the Industrial Disputes Act termination by the employer would amount to retrenchment unless and until it is by way of disciplinary action.

14. It is the specific contention raised by the respondents that the petitioner was relieved from his service due to his professional misconduct. Two instances have been referred i.e. motor vehicle challan of the petitioner for rash and drunk driving which Ext. RW1/B and RW1 has stated on oath that petitioner had also caused accident of a vehicle/car of the school on 11th December, 2018 resulting in bodily injuries and loss of vehicle. It is pertinent to observe here that though school is laying reliance upon the directions of Hon'ble Supreme Court regarding the challaned drivers of school buses however the above mentioned challan was pertaining to incident in the year 2016. Similarly the alleged accident took place in the year 2018. No documentary evidence with regard to the alleged accident or any criminal proceedings corresponding to the same has been produced on record by the respondents. RW1 Smt. Ekta, Principal has admitted that no written notice for the above cause of misconduct was issued to the petitioner nor any inquiry was conducted against him. She has emphasized that petitioner was warned number of time and documentary evidence of such warning has been produced on the case file. She admitted that petitioner had worked with the respondent till 2020 even after the challan Ext. RW1/B. The petitioner has denied in his cross-examination that he was not driving vehicle in a proper manner and as a result of which he was relieved by school authority. No documentary evidence in the form of notice or inquiry has been produced in order to show that any disciplinary proceedings were carried out by the respondents against the petitioner and pursuant to challan Ext. RW1/B. It appears that despite alleged challan respondents have continued to avail the services of the petitioner. Admittedly after 1.4.2020 respondents started deploying the drivers on outsource basis. This vindicates the stands of the petitioner that he was deliberately thrown out of his service without mandatory compliance of the Industrial Disputes Act due to his demanding of regularization and refusing to join on outsource basis. There is no evidence to show that he was any immediate professional misconduct on the part of petitioner consequent to which he was relieved/terminated from his service by respondent no.2 by way of disciplinary action. Since the petitioner had completed 13 years of continuous service and completed 240 days of work immediately preceding the date of his termination it was incumbent upon the respondent to comply with the provisions of Section 25-F of the Industrial Disputes Act before terminating the services of the petitioner. Thus the respondents have violated the provisions of Section 25-F of the Industrial Disputes Act, 1947.

15. RW1 Smt. Ekta, Principal has admitted that persons junior to the petitioner are still working in the institution though she emphasized that they were worked on outsource basis. This fact is also evident from the list of employees produced on case file. It is also asserted that new workers have been appointed after 1.4.2020. Thus it is proved that respondents have violated the provisions of Sections 25-G and 25-H of the Industrial Disputes Act. The issue no.1 is accordingly decided in the favour of the petitioner.

ISSUE NO.2

16. It has been proved from overwhelming evidence produced on behalf of the parties that petitioner was continuously employed with respondent from the year 2008 till 2020. He worked

throughout each academic session in 13 years of his services working more than 240 days in each year. Respondents illegally terminated the services of the petitioner and violated the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act. In these circumstances the illegal termination of the petitioner is liable to be set aside and petitioner is held entitled for reinstatement on his post as driver-cum-peon on similar basis as held by him on the date of his termination. He is also entitled for compensation of Rs.50,000/- in lieu of back wages along-with seniority and continuity of service since the date of initial engagement in the year 2008. Hence this issue is decided accordingly.

ISSUE NO.3

17. The maintainability of the claim petition have been challenged by the respondents primarily on the ground that the petitioner was relieved due to his misconduct however it appears that respondents have not followed the procedure in accordance with law at the time of dispensing with the services of the petitioner nor any record of notice or inquiry contrary to the alleged disciplinary action can be produced before this court hence present claim petition is maintainable and issue decided in the favour of the petitioner.

RELIEF

18. In view of my discussion on the issues nos. 1 to 3 above, the claim petition succeeds and is partly allowed. The petitioner is held entitled for reinstatement on his post as driver-cum-peon on similar basis as held by him on the date of his termination. He is also entitled for compensation of Rs.50,000/- in lieu of back wages along-with seniority and continuity of service since the date of his initial engagement in the year 2008. Hence this issue is decided accordingly.

19. The direct claim/reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 38/2022
Date of Institution : 05-3-2022
Date of Decision : 28-06-2025

Shri Ashok Kumar s/o Late Shri Madan Lal, r/o VPO Kitpal, Tehsil Nadaun, District Hamirpur, H.P. ..Petitioner.

Versus

1. The Block Medical Officer, Nadaun, Tehsil Nadaun, District Hamirpur, H.P. (Principal Employer).

2. Shri Baldev Kumar, M/s Baldev Kumar Manpower Agency, Suraj Kund Road, Kangra, Tehsil & District Kangra, H.P. (Contractor) ..Respondents.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Bhavnesh Chaudhary, Ld. Adv.
 For the Respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.
 For Respondent No.2 : Sh. Rakesh Mehra, Ld. Adv.

AWARD

1. The following reference has been received by this court for adjudication from the appropriate Government/Joint Labour Commissioner:—

“Whether the termination of services of Shri Ashok Kumar s/o Late Shri Madan La, r/o V.P.O. Kitpal, Tehsil Naduan, District Hamirpur, H.P. by (i) the Block Medical Officer, Nadaun, Tehsil Nadaun, District Hamirpur, H.P (Principal Employer). (ii) Shri Baldev Kumar, M/s Baldev Kumar Manpower Agency, Suraj Kund Road, Kangra, Tehsil & District Kangra, H.P. (Contractor) w.e.f. 25.5.2021, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. The brief facts as stated in the claim petition are that the applicant/petitioner was engaged by respondent no.2 in October, 2013 as sweeper in Civil Hospital Nadaun, Tehsil Nadaun, District Hamirpur, H.P. He performed his services upto 8 years as per policy sincerely and faithfully and completed 240 days of work in each calendar year. It is alleged that in June, 2021 respondents forcibly and illegally terminated/retrenched the services of the applicant by levelling false allegations that during period of Covid-19 the applicant refused to work when he was deputed at Covid Care Centre at NIT Hamirpur. According to petitioner he has done his work with honesty and sincerity and the act of the respondent was illegal. In-fact mother of petitioner was suffering from blood cancer during period of Covid-19. He had requested respondent that he was the only person to take care of his mother and he intends to serve at Civil Hospital Nadaun. Despite this his services were terminated by the respondents on 24.5.2021 by levelling false allegations. He approached the authorised officer on 31.5.2021 of the Principal Employer i.e. Block Medical Officer Nadaun and submitted an application regarding his request, but of no consequences. Petitioner further states that he is very poor person and the job is essential for his family. He served for 8 years without any complaint however due to act of the respondent he suffered mental agony, physical harassment and huge financial loss. He also approached Chief Minister Helpline and resultantly on 23.6.2021 the Conciliation Officer/Labour Inspector had summoned both the parties but dispute could not be settled. Respondent no.1 was also directed by Conciliation Officer that respondent no.2 should reinstate the services of the petitioner but respondent no.2 refused to do the same. The petitioner has submitted that his services were terminated illegally on the basis of distorted fact despite performance of his duties in honest and sincere manner. He has prayed that his illegal intentional termination be set aside and quashed and he may be reinstated in his services along-with seniority, regularization and back wages along-with 12% interest per annum.

3. In reply on behalf of respondent no.1 preliminary submissions qua maintainability, suppression of material fact, estoppel, cause of action and respondent no.2 being the employer of petitioner have been raised. On merits, it is asserted that the petitioner had carried out his work till 24.5.2021 when the respondents received monthly invoice from respondent no.2 along-with attendance sheet of the employees. The payment was being made by respondent no.1 directly to respondent no.2 on receipt of invoice. During the year 2012 notice inviting tender had been issued on 19.5.2012. Tenders were received from various bidders and after that comparative statement was prepared and respondent no.2 was awarded vide Director of Health Shimla letter No.HFW-H(III)G(7)24/-2012 the work was awarded from 1.12.2012 to 31.3.2013. Similarly from time to time extension of awarded work and fresh notices were issued inviting tenders by the Chief Medical Officer, Hamirpur. The copies of notice inviting award letters of extension of awards are also annexed with the reply. It is asserted that the respondent no.1 used to submit monthly bills before replying respondent and payments were directly made in the account of respondent no.2. The work was of contractual as respondent no.1 entered into an agreement wherein it was clearly and specifically mentioned that contractor had also entered into sanitation service agreement. Respondent no.1 also alleged that they did not have any direct and indirect control over the works and terms and conditions of applicant/petitioner as well as other employees including their qualification, mode of recruitment, rate of wages, employment conditions, place of posting, assignment of duties, working hours etc. Respondent no.1 had received invoice from respondent no.2 along-with attendance of safai karamcharies in which Ashok Kumar is marked absent from 24th May, 2021 onwards. He was replaced by Shri Jitender Kumar. It is also denied by respondent that petitioner had completed 240 days of work continuously and had worked for 8 years with the respondents. Other averments made in the claim have also been denied. It is denied that any requests were made by petitioner qua his initial engagement and continuation of work at Civil Hospital Nadaun. It is submitted that prayer made in the statement of claim are to be rejected being devoid of merits.

4. In reply on behalf of respondent no.2 preliminary submissions qua maintainability, applicant being engaged on outsource work from 1.6.2020 for 10 months, committing of violation of agreement by the applicant, refusal of work by the applicant, cause of action etc. have been raised. On merits, it is denied that the applicant was engaged by respondent no.2 in October, 2013 as sweeper in Civil Hospital Nadaun. It is also denied that he had worked for 8 years and according to respondent no.2 there is no policy of outsource work framed by the government or any department. It is also denied that the petitioner was rendering his services as safai karamchari sincerely and faithfully. In-fact applicant was engaged on outsource karamchari on 1.6.2020 as per his application dated 30.5.2020 whereby he agreed with agreement of employment. Earlier he had worked in reserve and kept in surplus and only deployed as per requirement of the department. The department had given requirement of more employees i.e. outsourced safai karamchari in Civil Hospital Nadaun from 1.6.2020. There was pandemic Covid-19 in the Country and Special Government Care Centre was established during lockdown at NIT campus Hamirpur. As per requirement of health authorities respondent no.2 deputed applicant and other employees in the Covid Care Centre NIT Hamirpur as per request of Chief Medical Officer Hamirpur vide letter dated 29.5.2020. Thereafter as per office order of the safai karamcharis working with the replying respondent were deputed in Covid Care Centre NIT Hamirpur as well as Sai Marriage Palace Dugha. The applicant refused to obey the orders and despite orders failed to join service from 23.5.2021 to 1.6.2021 he remained absent from duties without information and intimation of the respondent as well as health authorities. Respondent had taken tender to provide safai karamchari to health authorities and also executed an agreement after allotment of tender to provide uninterrupted services to health department. The petitioner at the time of his engagement had undertaken to work anywhere as per order of the respondent no.2 but he failed to discharge his duties and intentionally and knowingly absented himself from duties without any intimation. He was not even discharging his duty regularly at Civil Hospital Nadaun and remained absent and

negligent in performing his duties. He refused to work in NIT Covid Care Centre Hamirpur and remained absent from 23.5.2021 to 1.6.2021 without intimation thus he left the job voluntarily. Respondent no.2 in order to avoid penal action of the government of HP under the provisions of Disaster Management Act, 2005 to facilitate the health authorities had to engage another person. The applicant was infact safai karamchari for specific and limited period on fixed wages. Once he accepted the terms and conditions of employment he had not right to claim reengagement after violation of terms and conditions of his employment as he himself was guilty of not attending his work as per directions. It is asserted that the services of the petitioner were terminated on account of own wrongs and violation of terms and conditions. Other averments made in the petition were denied in parawise and it is prayed that the claim of the petitioner deserves to be dismissed.

5. In the rejoinder the preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

6. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the services of the petitioner were illegally terminated by the respondents w.e.f. 25.5.2021 without complying with the provisions of the Industrial Disputes Act, 1947, as alleged? ..*OPP*.
2. If issue No.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, compensation and past service benefits as claimed? ..*OPP*.
3. Whether the petition is not maintainable, as alleged? ..*OPR*.
4. Whether the petitioner has not come to the Court with clean hands and has suppressed the material facts, as alleged? ..*OPR 1& 2*.
5. Whether the petitioner is not the employee of the respondent no.1? ..*OPR1*.
6. Whether the petitioner is estopped by his act and conduct to file the claim, as alleged? ..*OPPI*.
7. Relief.

7. The petitioner in order to prove his case examined himself by way of affidavit Ext. PW1/A wherein he reiterated the averments made in the claim petition.

8. Respondent no.1 examined Dr. Kamal Kishor Sharma by way of affidavit Ex. RW1/A and also produced on record copy of attendance sheet Ext. RW1/A, copy of letters Ext. RW1/B, copy of sanitation services agreement Ext. RW1/C, copy of application Ext. RW1/D, copy of application Ext. RW1/E and copy of letter dated 5.7.2021 Ext. RW1/F. Respondent no.2 examined Shri Baldev Kumar, M/s Baldev Manpower Agency by way of affidavit Ex. RW2/A. He has also produced on record copy of office order Ext. RW2/B, copy of notice Ext. RW2/C, copy of letter dated 25.5.2021 Ext. RW1/D, copy of letter dated 3.7.2021 Ext. RW2/E, copy of letter dated 23.6.2021 Ext. RW1/F and copy of letter dated 11.6.2021 Ext. RW2/G.

9. I have heard the learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent no.1 and learned counsel for respondent no.2 at length and records perused. 10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	:	No
Issue No. 2	:	Decided accordingly
Issue No. 3	:	Yes
Issue No. 4	:	Yes
Issue No. 5	:	Yes
Issue No. 6	:	Yes
Relief	:	Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUE NO.1

11. The petitioner has appeared in witness box in order to support the averments made in the claim petition and he has deposed on oath that he was engaged by respondent no. 2 in 2013. He completed 8 years of work sincerely and faithfully working for 240 days in each calendar year. He alleged that his services were forcibly terminated by respondents from June, 2021 on false allegations.

He also asserts that his mother was suffering with blood cancer and during Covid-19 there was nobody else to look after her. He requested the respondent that he is only person to look after his mother and want to serve at Civil Hospital Nadaun. His mother expired on 19.6.2023 however his services were terminated by respondent on 24.5.2021. He had also approached the authorized officer on 31.5.2021 and submitted his application to resume the duties. He has asserted that respondents have illegally terminated his services in violation of the provisions of the Industrial Disputes Act. Respondent no.1 has not denied that the petitioner had worked in Civil Hospital Nadaun however it is their contention as stated on oath by RW1 Dr. Kamal Kishor Sharma that petitioner was engaged on outsource basis employee through respondent no.2. The copy of tenders issued by respondent no.1 have been produced in the case file which clearly shows that respondent no.1 had entered into agreement with respondent no.2 for supply of manpower and to carry out the cleaning activities or work of sweeper in the Civil Hospital Nadaun. RW1 has also admitted in his cross-examination that the petitioner as per record worked with them in Civil Hospital Nadaun from 1.6.2020. He has however shown his ignorance to the suggestion that the petitioner was working in the Civil Hospital Nadaun since May, 2013. He has shown his ignorance to the suggestion that mother of petitioner was suffering from cancer due to which he was unable to join his duty. It is pertinent to mention here that though according to petitioner he had given an application to the Block Medical Officer Nadaun regarding the request for his non appearance on 30.5.2021 but no such application could be produced on record by the petitioner. In his cross-examination RW1 Shri Kamal Kishor Sharma further asserted that the petitioner was an outsource employee with the respondent no.2 and as per record he has worked on outsource from 1.6.2020 to 24.5.2021 he further admitted that despite order the petitioner had refused to join his duty at covid centre and further admits that during that time it was an emergency situation and there was an urgent need of keeping the covid centre clean. He also admitted that since the petitioner did not join the contractor had to employ another person in his place. RW2 Shri Baldev Kumar contractor has asserted in his affidavit that the petitioner has failed to join his duties as Covid-19 at Care Centre, NIT Hamirpur. The health department had urgently required manpower for carrying out cleaning work at the Covid Centre NIT Hamirpur and he was asked to depute the employees. The petitioner

was also directed to join his work at Covid Care Centre NIT Hamirpur which he refused to do. He had denied in his cross-examination that the petitioner was working with him since 2013. He denied that he had terminated the services of the petitioner and asserted that petitioner himself left the job. Though he admits that no separate consent of the petitioner was obtained before his transfer to Hamirpur from Nadaun but he admits that such condition was already present in the appointment letter of the petitioner. The appointment letter of the petitioner Ext. R1 and Ext. R2 clearly shows that in addition to other conditions it was mentioned that the services of petitioner could be transferred from one place to another. In the light of allegations made by the respondents it is important to peruse the cross-examination of petitioner. The petitioner in his cross-examination admitted that he was appointed by respondent no.2 and no appointment letter was given to him by respondent no.1. He also admitted that respondent no.1 has never made any payment to him. He admitted that respondent no.2 was awarded tender on behalf of respondent no.1. He has shown his ignorance to the suggestion that the workers of respondent no.2 were appointed only when the work was available with the respondent no.1. He has admitted his signatures over the appointment letter Ext. R1 and undertaking Ext. R2. He has further admitted verification certificate Ext. R3, police verification Ext. R4 and Aadhar card Ext. R5 also belong to him. He admits that in June, 2021 his duty was fixed at Covid Care Centre NIT Hamirpur. He admits that the outsource services are provided by respondent no.2 on the demand of respondent no.1. He admitted that despite order to join at Covid Centre NIT Hamirpur he did not join. According to him his mother was unwell however he admits that he had not given any written application regarding the illness of his mother to respondent no.2. Pertinent to mention here that though asserted by him he has not produced on record any such application which was given by him to respondent no.1 also. He further admits that as per Ministry of Health guidelines in case the contractor was unable to provide an outsource labour in covid centre his tender was liable to be cancelled. He further admits that he was informed about his duty at covid centre NIT Hamirpur two days in advance. Though according to him he had put signatures on the office order however he admits that despite this he did not join his duty at covid centre NIT Hamirpur. He admits that as per the undertaking given at the time of his appointment he had agreed to join at the place of duty as per order of his employer. He further admits that his services were terminated as he had not joined despite order at Covid Centre NIT Hamirpur. The Hon'ble High Court of HP in **H.P. State Co-operative Marketing and Consumers Federation Ltd. vs. Nain Sukh in CWP No. 3806 of 2010** decided on 3.5.2018 has held in para no. 7 and para no. 8 as follows:—

- “7. It is not in dispute that herein it is not a case where services of the workman were terminated by the workman without any rhyme and reason, in violation of the provisions of the Industrial Disputes Act. It is a matter of record that the workman while serving at Thanadhar, was ordered to be transferred to Parwanoo and he was directed to join at Parwanoo, failing which, he was informed that his services were liable to be terminated. Workman did not abide by the orders so passed by the employer. In other words, he did not comply with the directions of the employer to join services at Parwanoo. It was in this background that when the workman did not abide by the orders so passed by the employer, his services were terminated by the employer. In fact, a perusal of the claim petition itself demonstrates that the workman in paras 5 and 6 thereof has admitted the fact that he did not join the duties at Bottling Plant Parwanoo, as was directed by the employer. In his cross-examination, the workman has admitted it to be correct that he was transferred from Thanadhar to Bottling Plant Parwanoo and that he did not join at Parwanoo.
8. In my considered view, when the workman himself has admitted the factum of his not joining the place where he was ordered to be transferred by the employer, which ultimately led to the termination of his engagement by the employer, I find that the learned Tribunal erred in answering the Reference petition in favour of the workman

by holding that the services of the workman could not have been terminated without holding a domestic inquiry. This Court fails to understand as to what kind of a domestic inquiry learned Labour Court wanted the employer to hold when the workman had refused to join the place of posting where he was transferred. Further, this is a case where on the failure of workman to join the place of his transfer, his services were dispensed with. This dispensation cannot be termed to be in violation of the provisions of the Industrial Disputes Act. The award passed by the learned Labour Court is thus a result of mis-reading and mis-appreciation of evidence on record and as there is no perversity in the same, the same is not sustainable in law”.

12. In the circumstances of the present case the evidence reveals that the petitioner was appointed as safai karamchari at CHC Nadaun on outsource basis through respondent no.2. He had undertaken to work as per directions of respondent no.2 and join at the place of his duty fixed by respondent no. 2. Important documents have been produced by respondent no.2 to show that there was urgent need of safai karamcharis as per directions of the health department and at NIT Hamirpur Covid Care Centre during covid pandemic. The office order in this regard Ext. RW1/B request to provide safai karamcharis from Chief Medical Officer Ext. RW1/H. Notice to the petitioner is Ext. RW2/C. Information regarding the absence of the petitioner is Ext. RW2/D, Ext. RW2/E and Ext. RW2/F. All the above documents clearly show that though petitioner was appointed at CHC Nadaun he was under an obligation to join the duty as per directions of his employer specifically the respondent no.2 where he was directed to do so. Despite order to join at Covid Care Centre NIT Hamirpur the petitioner had intentionally failed to join the duty. Though he has mentioned that he had presented an application due to ill health of his mother but there is no documentary record of any such application or leave being presented by him to respondent no.2 or respondent no.1. Thus non appearance of the petitioner duty from 24th May, 2021 onwards was intentional and without any notice to the respondents which amounts to wilful absence from duty. As admitted by the petitioner he did not join the duty despite having knowledge of a specific order of his appointment at Covid Care Centre NIT Hamirpur. There was no need for respondents to take any disciplinary proceedings in the form of domestic inquiry against the petitioner. Since the petitioner had wilfully absented from his duty the termination of the petitioner does not fall within the purview of term retrenchment under the Industrial Disputes Act. Accordingly issue no.1 is decided in the favour of the respondents.

ISSUE NO. 2

13. It has been proved from evidence that the petitioner was not terminated illegally by the respondents but he wilfully and intentionally abandoned his work. Hence the petitioner is not entitled for any of the relief as prayed for in the claim petition. Issue no.2 is decided accordingly.

ISSUES NO. 3, 4 AND 6

14. The maintainability of claim petition was primarily challenged on the ground of abandonment of service by the respondents. This fact is not only evident from the oral as well as documentary evidence but unequivocally admitted by the petitioner in his cross-examination. The petitioner had suppressed the facts that he without any leave or intimation absented from his work hence petitioner has not come to the court with clean hands and the present claim is not maintainable. Hence these issues are decided in the favour of the respondents.

ISSUE NO. 5

15. The documents have been produced on record by respondent no. 1 which clearly show that tender for supply of manpower had been issued and awarded to respondent no. 2. There is no

evidence on record to show that the petitioner was working under direct control and supervision of respondent no. 1, was being paid salary by respondent no. 1 or appointment and retrenchment. In these circumstances the petitioner cannot be held to be an employment of respondent no.1 and this issue is decided in the favour of respondent no. 1.

RELIEF

16. In view of my findings on the issues no. 1 to 6 above the claim petition filed on behalf of the petitioner is not maintainable and the same is dismissed. Parties are left to bear their costs.

17. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.
(Camp at Mandi).

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 32/2022
Date of Institution : 31.3.2022
Date of Decision : 28.06.2025

Shri Ashwani Kumar s/o Shri Bhagwan Dass, r/o VPO Bhugnara, Tehsil Nurpur, District Kangra, H.P. *..Petitioner.*

Versus

1. The Executive Engineer, I&PH Division, Nurpur, District Kangra, H.P. (Principal Employer)

2. The Proprietor, M/s Vishwakarma Engineering Services Jachh, P.O. Jassur, Tehsil Nurpur, District Kangra, H.P. (Contractor) *..Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rohit Kumar, Ld. Adv.
For the Respondent No.1 : Sh. B.C.Katoch, Ld. Dy. D.A.
For Respondent No. 2 : Sh.Vijay Kaundal, Ld. Adv.

AWARD

1. The following reference has been received by this court for adjudication from the appropriate Government/Joint Labour Commissioner.

“Whether the termination of services of Shri Ashwani Kumar s/o Shri Bhagwan Dass, r/o V.P.O. Bhugnara, Tehsil Nurpur, District Kangra, H.P. by (i) the Executive Engineer, I&PH Division Nurpur, District Kangra, H.P. (Principal Employer),

(ii) Shri Ashok Kumar, Proprietor, M/S Little Enterprises, V.P.O. Bhadwar, Tehsil Nurpur, District Kangra, H.P. (Contractor) during 19.6.2019 (as alleged by workman), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. The brief facts as stated in the claim petition are that the petitioner was appointed as Pump Operator by the respondent concern on 1.3.2012 and drawing salary of Rs.4000/- per month and had continued till his termination/retrenchment. It is asserted that petitioner had served with respondent concern till 19.6.2019 for more than one year and had completed more than 240 days in each calendar year in accordance with Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had worked indigenously with full honesty with the respondent concern till 19.6.2019. It is asserted that petitioner had worked for more than 10 hours a day with the respondent and was not paid overtime charges as per the provisions of law. The services of the petitioner were verbally retrenched/terminated w.e.f. 19.6.2019 without given any prior notice, reason and opportunity of being heard as well as without following the procedure in accordance with the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947. It is alleged that junior and similar situated persons to the petitioner are still working with the respondent concern however the services of the petitioner were dispensed with by the respondent which was arbitrary without any reason, notice and without holding any inquiry and without affording an opportunity of being heard. On 19.6.2019 when the petitioner went for duty as usual he was denied to enter the gate of respondent concern and was verbally told that his services had been retrenched. Thereafter, the petitioner had visited the respondent for several days to seek reason of his termination and requested the authority to take him back in job. The respondent neither addressed the grievance of petitioner nor reinstated his services however petitioner had sent demand notice to the respondent as per provisions of the Industrial Disputes Act, 1947. Thereafter proceedings were initiated before the Conciliation Officer and after two hearings the matter was not proceeded. The petitioner had sent a representation to the Labour Commissioner with regard to his grievance. He was called for conciliation but no solution was reached and the grievance of the petitioner remained as such till date. It is alleged that the termination of the petitioner was without any logical and fair reason and without following the provisions of the Industrial Disputes Act, 1947. It is asserted that during pendency of conciliation proceedings respondents betrayed the trust of petitioner/workman which directly amounts to contravention of Section 33 of the Industrial Disputes Act. It is alleged that dismissal of the services of the petitioner was in violation of Section 25 of the Industrial Disputes Act and was illegal, unjust, unconstitutional and void ab-initio and same sought to be quashed and declared null and void. It is therefore prayed that petitioner may be reinstated with all consequential benefits, seniority, back wages and be treated as per his original appointment with all consequential relief.

3. In reply on behalf of respondent no.1 preliminary submissions qua maintainability and suppression of material facts have been raised. On merit, it is asserted that the work awarded to the contractor for a particular time and it was the responsibility of the contractor to run the scheme at his risk and cost. It is asserted that it was the prerogative of respondent no.2 to engaged and

disengage labour at his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operators as the recruitment for the post of pump operator was to be done by the department only after following codal formalities. It is denied that his post and nature of work was permanent and under direct control and supervision of respondent no.1. It is further denied that the training was given to petitioner through employees of the department and the department had monitored the work of petitioner. It is denied that respondent no.1 had condemned the petitioner unheard and violated the principles of natural justice. It is denied that the petitioner was appointed as pump operator by respondent no.1 on 1.3.2012 and was drawing salary of Rs.4000/- per month. In-fact the work was awarded to contractor to provide the work to run and maintenance of scheme for particular time for which necessary payment was released to the contractor from time to time. It is denied that petitioner had served with respondent department till 19.6.2019 and completed more than 240 days in any of the years. It is asserted that the petitioner had worked under the director control of contractor. It is denied that the petitioner had worked indigenously with full honesty till 19.6.2019. It is denied that the petitioner had worked for more than 10 hours daily and was not paid over time charges. It is asserted that the work was awarded to the contractor for particular time. It is further denied that the petitioner was verbally retrenched or terminated by the department w.e.f. 19.6.2019. It is asserted that the petitioner was engaged by the contractor for a particular time period directly under the supervision and control of contractor and as such question of issuing any show cause notice to petitioner does not arise. It is asserted that the respondent department had not violated any provisions of the Industrial Disputes Act. All other parawise averments made in the petition are denied and it is prayed that the petition may be dismissed.

4. In reply on behalf of respondent no.2 preliminary submissions qua maintainability, locus standi, suppression of material facts have been raised. On merits, it is denied that petitioner was served with contractor i.e. respondent no.2 w.e.f. 1.3.2012 to 19.6.2012 as pump operator. It is further asserted that the respondent no.1 had awarded tender to respondent no.1 for a short period and required some manpower to run maintenance of LWSS Tarela Kandwal, Raja Ka Bagh i.e. pump operator to operate pumping machinery and chowkidar and thereafter manpower were supplied to respondent no.1 as required vide letter dated 2.7.2019 and the services of the petitioner were hired by respondent no.1 for a period of six months and after expiry of agreement the scheme was handed over to department before 30.6.2019 and petitioner could not to say that he had worked with the respondent no.2 from 1.3.2012 to 19.6.2012. Thereafter the tender was awarded to M/s Shimla Cleanways by the department and as such the question working of the petitioner with respondent no.2 w.e.f. 1.3.2012 to 19.6.2019 does not arise at all. It is asserted that contents of para no.2 of the claim petition of the petitioner was not cleared in which respondent the petitioner had worked in the capacity of pump operator but respondent no.2 has never appointed the petitioner w.e.f. 1.3.2012 @ 4000/- per month till the date of his termination. It is specifically denied that petitioner had never worked with respondent no.2 till 19.6.2019 and that he served more than one year and had completed 240 days as per Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had not worked for more than 10 hours a day and was not paid overtime charges as per provision of law. It is denied that the petitioner was never terminated by respondent no.2 w.e.f. 19.6.2019 and as such question of giving him prior notice does not arise at all as well as no violation of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 had been committed by respondent no.2. It is asserted that petitioner had not worked with replying respondent and question of retaining junior persons does not arise at all as the petitioner has failed to disclose the name of his junior in the petition. Though respondent no.2 had not terminated the services of petitioner and as such question of holding inquiry, issuing of charge sheet does not arise at all. It is asserted that respondent no.2 had never told to petitioner not to report for duties on 19.6.2019 as the respondent no.2 had never installed any pump house in his establishment. It is asserted that the respondent no.2 had not terminated the services of petitioner as well as not violated Sections 25-F, 25-H and 33 of the Industrial Disputes Act. It is denied that during

conciliation proceedings respondent no.2 had never given assurance to petitioner with regard to his re-engagement. It is denied that the respondent no.2 had never employed any helper. Other averments made in the petition were denied and it is prayed that the claim of the petitioner deserves to be dismissed.

5. No rejoinder was filed on behalf of petitioner.

6. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the services of the petitioner were illegally terminated by the respondents w.e.f. 19.6.2019 as alleged? ..*OPP.*
2. If issue No.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, compensation and past service benefits as claimed? ..*OPP.*
3. Whether the petition is not maintainable, as alleged? ..*OPR.*
4. Whether the petitioner has suppressed the material facts and has not come to the Court with clean hands, as alleged? ..*OPR.*

RELIEF

7. The petitioner in order to prove his case examined himself by way of affidavit Ext. PW1/A wherein he reiterated the facts alleged in the claim petition.

8. Respondent no.1 examined Er. Anurag Sharma, Executive Engineer, Jal Shakti Sub Division Jassur by way of affidavit Ex. RW1/A wherein he reiterated the facts alleged in the reply. He also produced on record award letter Ext. RW1/B, letter dated 2.7.2019 Ext. RW1/C, notice inviting tenders and award letters Ext. RW1/D to Ext. RW1/J, letters dated 27.5.2018 Ext. RW1/K, office orders Ext. RW1/L to Ext. RW1/P and payments made to contractor Ext. RW1/P. Respondent no.2 has examined Shri Hem Raj, Proprietor, Vishwakarma Engineering Services by way of affidavit Ext. RW2/A wherein he reiterated the facts alleged in the reply.

9. I have heard the learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent no.1 and learned counsel for respondent no.2 at length and records perused.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	:	No
Issue No. 2	:	Decided accordingly
Issue No. 3	:	Yes
Issue No. 4	:	No
Relief	:	Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES NO.1 AND 3

11. All the above mentioned issues shall be taken up together for the purpose of adjudication.

12. The petitioner has stated on oath that he was appointed as pump operator and was serving with contractor MD of Vishwakarma Engineering Services Jachh (Jasoor), District Kangra, H.P. since 1.3.2012 to 19.6.2019. He was appointed on 1.3.2012 and was drawing salary of Rs.4000/- basic per month till the date of his alleged retrenchment. He has also stated that he continued to work with respondents till 30.6.2019 and completed 240 days of service in each calendar year. He has also mentioned that his nature of work was permanent and technical. He had worked under the direct control and supervision of respondent no.1. He was also provided time to time training by respondent no.1 and was working under the direct control of I&PH department through Junior Engineer who was monitoring his work and also giving instructions for his work. He has alleged that he was verbally retrenched w.e.f. 19.6.2019 without any prior notice, reason and opportunity of being heard. Despite the fact that he was working with honesty and helping respondents to achieve their objective, no inquiry, show cause notice, charge sheet etc. was ever issued to him thus his termination was arbitrary and deserve to be set aside. The case of respondent no.1 is however stated by RW1 Shri Anurag Sharma, Assistant Executive Engineer, Jal Shakti Sub Division Nurpur who has deposed on oath that petitioner was not serving as pump operator with the department but he was casual labourer under direct control and supervision of contractor/respondent no.2. The payments were being made by department to the contractor and the work was not under the direct control of the department. The work was awarded to contractor for a fixed time and it was responsibility of contractor to run the scheme at his risk and cost. It was prerogative of respondent no.2 to engage and disengage labour of his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operator with the department. Such recruitment is always done by the department after following codal formalities. He has denied that the petitioner was working under the control and supervision of the employees of the department. Respondent no.1 has clearly asserted that petitioner was not working under them but was serving under the direct control and supervision and was employed by respondent no.2 only hence according to respondent no.1 the petitioner has not claim against respondent no.1.

13. Respondent no.2 Shri Hem Raj, Proprietor, M/s Vishwakarma Engineering Services Jachh (Jasoor), Tehsil Nurpur, District Kangra has appeared on behalf of respondent no.2 and he has asserted that the services of petitioner were never engaged by respondent no.2 as pump operator w.e.f. 1.3.2012 to 30.6.2019. He has completely denied not only engagement of petitioner but also making payment to the petitioner. It is asserted that petitioner has not placed on record any proof like attendance register, payment record, ID card, ESIC membership, EPF record etc. in order to show his employment with the respondent no.2. Thus according to respondent no.2 there was no relationship of master and servant between respondent no.2 and petitioner. The claim of the petitioner including the allegations of termination and regarding violation of the Industrial Disputes Act has been denied by respondent no.2.

14. Petitioner in his cross-examination by learned Dy. D.A. for respondent no.1 has admitted that the department used to make payment to respondent no.2 who further made payment to the petitioner. He has admitted that there was no advertisement issued by the department for the post of pump operator neither any application form has been filled. He has shown his ignorance to the suggestion that the department had awarded a tender to respondent no.2 for a limited period of time. According to him he was not sent by respondent no.2 to do the awarded work. He has also

denied that his documents were deposited with the respondent no.2. He has stated that all the documents were given by him to the department however no oral or documentary evidence in this regard could be produced by him. He has admitted that he has not produced any record pertaining to the salary neither the bank statement. He has denied that these documents have been deliberately not produced before this court as the payments to him were being made by respondent no.2. Respondent no.1 has not completely denied that petitioner was working with respondent no.2 but they have asserted that the petitioner was working after being engaged by respondent no.2 without direct control and supervision of respondent no.1. Contrary to this respondent no.2 completely denied that petitioner had ever worked with them in any capacity or any payments were made to petitioner at any interval. RW2 has admitted in his cross-examination that he was issued a tender by respondent no.1 for manpower supply and repairs of a water scheme which according to him was being run by him. He has denied that he had employed petitioner with him and paid salary to the petitioner. He has admitted that he carried out the work as per the tender and received payments vide Ext. RW1/Q through RTGS. In his cross-examination he has completely denied that the petitioner has ever worked with him as pump operator. He has also denied that he used to deduct EPF from salary of the petitioner but never deposited it. He has denied that he paid cash in salary to the petitioner and did not pay overtime and minimum wages. He has denied that I&PH Department conducted training of petitioner. He has denied that he has committed the violation of the provisions of the Industrial Disputes Act while terminating the services of the petitioner.

15. Considering the claim which has been preferred on behalf of petitioner the onus to prove the employer and employee relationship between petitioner and respondent no.1 or employer and employee relationship between petitioner and respondent no.2 was solely on the petitioner. This fact had been denied and contested by respondents no.1 and 2 hence oral and documentary evidence in this regard was to be initially led by the petitioner. The Hon'ble Supreme Court in **Workmen of Nilgiri Coop. Mkt. Society vs. State of Tamil Nadu & Ors, (2004) 3 SCC 514** has held that onus and decree of proof of employment primarily relates on the person who claims to be a workman, the relevant paragraphs of the said judgment as under:—

“47 It is a well-settled principle of law that the person who sets up a plea of existence of relationship of employer and employee, the burden would be upon him.

48. In N.C. John Vs. Secretary Thodupuzha Taluk Shop and Commercial Establishment Workers' Union and Others [1973 Lab. I.C. 398], the Kerala High Court held:

"The burden of proof being on the workmen to establish the employer-employee relationship an adverse inference cannot be drawn against the employer that if he were to produce books of accounts they would have proved employer-employee relationship."

49. In Swapan das Gupta and Others Vs. The First Labour Court of West Bengal and Others [1975 Lab. I.C. 202] it has been held:

"Where a person asserts that he was a workmen of the Company, and it is denied by the Company, it is for him to prove the fact. It is not for the Company to prove that he was not an employee of the Company but of some other person."

50. The question whether the relationship between the parties is one of the employer and employee is a pure question of fact and ordinarily the High Court while exercising its power of judicial review shall not interfere therewith unless the finding is manifestly or obviously erroneous or perverse.

16. In the present case except the bald statement of petitioner there is no other oral and documentary evidence pointing towards the fact that petitioner has been appointed and was terminated by the order of respondent no.1 or respondent no.2. Respondent no.1 have produced on record the various tenders copy of notice inviting tenders and award letters Ext. RW1/B to Ext. RW1/E. It appears that from time to the work of pump operator was being awarded on contractual basis to different contractors. RW2 has also admitted this fact. There is no oral or documentary evidence to prove that any training was being imparted by I&PH department to the petitioner or there was direct control and supervision of the employee of I&PH over work and conduct of the petitioner on day to day basis. There is no document in the form of any attendance register, payment of salary or any other important documents to show that the petitioner was working with respondent no.1 as well as respondent no.2. Respondent 2 has denied that the petitioner at any point of time had rendered his services with respondent no.2. In absence of any cogent oral and documentary evidence it cannot be held that the petitioner had worked with respondents for the period alleged in his affidavit and claim.

17. The specific question has been to RW1 Shri Anurag Sharma regarding obtaining of licence from licensing authority i.e. Labour Officer-cum-License registering officer Dharamshala to engage the contractor and deploy the contract labour. He has admitted that no such license has been obtained from the licensing authority. It is held by the Hon'ble Supreme Court in **Dena Nath and Ors vs. National Fertilizers Ltd. and Ors, AIR 1992 SC 457** as follows:—

“...The only consequences provided in the Act where either the principal employer or the labour contractor violates the provision of Sections 9 and 12 respectively is the penal provision, as envisaged under the Act for which reference may be made to Sections 23 and 25 of the Act. We are thus of the firm view that in proceedings under Article 226 of the Constitution merely because contractor or the employer had violated any provision of the Act or the rules, the Court could not issue any mandamus for deeming the contract labour as having become the employees of the principal employer. We would not like to express any view on the decision of the Karnataka High Court or of the Gujarat High Court (supra) since these decisions are under challenge in this court, but we would place on record that we do not agree with the aforequoted observations of the Madras High Court about the effect of non-registration of the principal employer or the non-licensing of the labour contractor nor with the view of Bombay High Court in the aforesaid case. We are of the view that the decisions of the Kerala High Court and Delhi High Court are correct and we approve the same”.

18. Merely the fact that respondent no.1 was not able to produce the requisite licence under the act of governing employment of contract labour would not itself established the case of the petitioner. There is nothing on record except the statement of petitioner to prove that petitioner was employed either by respondent no.1 or by respondent no.2. There is no evidence to show that the respondent no.1 had direct control and supervision over the work of petitioner. Record of payment has also not been produced before this court. In these circumstances the claim of the petitioner against the respondents is not established from the oral as well as documentary evidence produced before this court and in these circumstances it cannot be held that petitioner's services were retrenched by the respondents. The claim petition is not maintainable. Hence issues no.1 and 3 are decided in the favour of the respondents.

ISSUE NO.2

19. The claim raised by the petitioner was upon the proof of employer and employee relationship, between the petitioner and the respondents. There are no evidence produced by the petitioner in order to substantiate the claim made by him in the claim petition and the facts deposed

by way of affidavit. Hence not benefits as prayed for can be granted in his favour. This issue is decided accordingly.

ISSUE NO.4

20. The onus to prove the fact was on respondents. No oral or documentary evidence suggests that any material facts were suppressed hence this issue is decided accordingly.

RELIEF

21. In view of my findings on the issues no. 1, 2, 3 and 4 above the claim petition filed on behalf of the petitioner is not maintainable and the same is dismissed. Parties are left to bear their costs.

22. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No.	:	39/2022
Date of Institution	:	05-3-2022
Date of Decision	:	28-06-2025

Shri Rishu Kumar s/o Shri Kamal Jeet, r/o VPO Basa Waziran, Tehsil Nurpur, District Kangra, H.P. ..Petitioner.

Versus

1. The Executive Engineer, I&PH Division, Nurpur, District Kangra, H.P. (Principal Employer)
2. Shri Ashok Kumar, Proprietor, M/s Little Enterprises, VPO Bhadwar, Tehsil Nurpur, District Kangra, H.P. (Contractor) ..Respondents.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner	:	Sh. Rohit Kumar, Ld. Adv.
For the Respondent No.1	:	Sh. B.C.Katoch, Ld. Dy. D.A.

For Respondent No.2 : Sh.Vijay Kaundal, Ld. Adv.

AWARD

The following reference has been received by this court for adjudication from the appropriate Government/Joint Labour Commissioner:—

“Whether the termination of services of Shri Rishu Kumar s/o Shri Kamal Jeet, r/o V.P.O. Basa Waziran, Tehsil Nurpur, District Kangra, H.P. by (i) the Executive Engineer, I&PH Division Nurpur, District Kangra, H.P. (Principal Employer), (ii) Shri Ashok Kumar, Proprietor, M/S Little Enterprises, V.P.O. Bhadwar, Tehsil Nurpur, District Kangra, H.P. (Contractor) w.e.f. 01.7.2019 (as alleged by workman), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. The brief facts as stated in the claim petition are that the petitioner was appointed as Pump Operator by the respondent concern on 1.3.2015 and drawing salary of Rs.4000/- per month and had continued till his termination/retrenchment. It is asserted that petitioner had served with respondent concern till 30.6.2019 for more than one year and had completed more than 240 days in each calendar year in accordance with Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had worked indigenously with full honesty with the respondent concern till 30.6.2019. It is asserted that petitioner had worked for more than 10 hours a day with the respondent and was not paid overtime charges as per the provisions of law. The services of the petitioner were verbally retrenched/terminated w.e.f. 30.6.2019 without giving any prior notice, reason and opportunity of being heard as well as without following the procedure in accordance with the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947. It is alleged that junior and similar situated persons to the petitioner are still working with the respondent concern however the services of the petitioner were dispensed with by the respondent which was arbitrary without any reason, notice and without holding any inquiry and without affording an opportunity of being heard. On 30.6.2019 when the petitioner went for duty as usual he was denied to enter the gate of respondent concern and was verbally told that his services had been retrenched. Thereafter, the petitioner had visited the respondent for several days to seek reason of his termination and requested the authority to take him back in job. The respondent neither addressed the grievance of petitioner nor reinstated his services however petitioner had sent demand notice to the respondent as per provisions of the Industrial Disputes Act, 1947. Thereafter proceedings were initiated before the Conciliation Officer and after two hearings the matter was not proceeded. The petitioner had sent a representation to the Labour Commissioner with regard to his grievance. He was called for conciliation but no solution was reached and the grievance of the petitioner remained as such till date. It is alleged that the termination of the petitioner was without any logical and fair reason and without following the provisions of the Industrial Disputes Act, 1947. It is asserted that during pendency of conciliation proceedings respondents betrayed the trust of petitioner/workman which directly amounts to contravention of Section 33 of the Industrial Disputes Act. It is alleged that dismissal of the services of the petitioner was in violation of Section 25 of the Industrial Disputes Act and was illegal, unjust, unconstitutional and void ab-initio and same sought to be quashed and declared null and void. It is therefore prayed that petitioner may be reinstated with all consequential benefits, seniority, back wages and be treated as per his original appointment with all consequential relief.

3. In reply on behalf of respondent no.1 preliminary submissions qua maintainability and suppression of material facts have been raised. On merit, it is asserted that the work was awarded to the contractor for a particular time and it was the responsibility of the contractor to run the

scheme at his risk and cost. It is asserted that it was the prerogative of respondent no.2 to engaged and disengage labour at his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operators as the recruitment for the post of pump operator was to be done by the department only after following codal formalities. It is denied that his post and nature of work was permanent and under direct control and supervision of respondent no.1. It is further denied that the training was given to petitioner through employees of the department and the department had monitored the work of petitioner. It is denied that respondent no.1 had condemned the petitioner unheard and violated the principles of natural justice. It is denied that the petitioner was appointed as pump operator by respondent no.1 on 1.3.2015 and was drawing salary of Rs.4000/- per month. Infact the work was awarded to contractor to provide the work to run and maintenance of scheme for particular time for which necessary payment was released to the contractor from time to time. It is denied that petitioner had served with respondent department till 30.6.2019 and completed more than 240 days in any of the years. It is asserted that the petitioner had worked under the direct control of contractor. It is denied that the petitioner had worked with full honesty till 30.6.2019. It is denied that the petitioner had worked for more than 10 hours daily and was not paid over time charges. It is asserted that the work was awarded to the contractor for particular time. It is further denied that the petitioner was verbally retrenched or terminated by the department w.e.f. 30.6.2019. It is asserted that the petitioner was engaged by the contractor for a particular time period directly under the supervision and control of contractor and as such question of issuing any show cause notice to petitioner does not arise. It is asserted that the respondent department had not violated any provisions of the Industrial Disputes Act. All other parawise averments made in the petition are denied and it is prayed that the petition may be dismissed.

4. In reply on behalf of respondent no.2 preliminary submissions qua maintainability, locus standi, suppression of material facts have been raised. On merits, it is asserted that from the contents of para no.2 of the claim petition of the petitioner it was not clear under which respondent the petitioner had worked in the capacity of pump operator but respondent no.2 has never appointed the petitioner w.e.f. 1.3.2015 @ 4000/- per month till the date of his alleged termination. It is specifically denied that petitioner had never worked with respondent no.2 till 30.6.2019 and that he served more than one year and had completed 240 days as per Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had not worked for more than 10 hours a day and was not paid overtime charges as per provision of law. It is denied that the petitioner was never terminated by respondent no.2 w.e.f. 30.6.2019 and as such question of giving him prior notice does not arise at all as well as no violation of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 had been committed by respondent no.2. It is asserted that petitioner had not worked with replying respondent and question of retaining junior persons does not arise at all as the petitioner has failed to disclose the name of his junior in the petition. Though respondent no.2 had not terminated the services of petitioner and as such question of holding inquiry, issuing of charge sheet does not arise at all. It is asserted that the respondent no.2 had not terminated the services of petitioner as well as not violated Sections 25-F, 25-H and 33 of the Industrial Disputes Act. It is denied that the respondent no.2 had retained junior and workman had not disclosed name of his junior. Other averments made in the petition were denied and it is prayed that the claim of the petitioner deserves to be dismissed.

5. No rejoinder was filed on behalf of petitioner.

6. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the services of the petitioner were illegally terminated by the respondents during June, 2019 as alleged? ..OPP.

2. If issue No.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, compensation and past service benefits as claimed? ..*OPP.*
3. Whether the petition is not maintainable, as alleged? ..*OPR.*
4. Whether the petitioner has suppressed the material facts and has not come to the Court with clean hands, as alleged? ..*OPR.*

RELIEF

7. The petitioner in order to prove his case examined himself by way of affidavit Ext. PW1/A wherein he reiterated the facts alleged in the claim petition.

8. Respondent no.1 examined Er. Anurag Sharma, Executive Engineer, Jal Shakti Sub Division Jassur by way of affidavit Ex. RW1/A wherein he reiterated the facts alleged in the reply. He also produced on record copy of notice inviting tender and award letters Ext. RW1/B to Ext. RW1/E and payments made to contractor Ext. RW1/F. Respondent no.2 has examined Shri Jagjit Rai, Authorized Representative, M/s Little Enterprises by way of affidavit Ext. RW2/A wherein he reiterated the facts alleged in the reply.

9. I have heard the learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent no.1 and learned counsel for respondent no.2 at length and records perused.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No.1	:	No
Issue No.2	:	Decided accordingly
Issue No.3	:	Yes
Issue No.4	:	No
Relief.	:	Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES NO.1 AND 3

11. All the above mentioned issues shall be taken up together for the purpose of adjudication.

12. The petitioner has stated on oath that he was appointed as pump operator and was serving with contractor Shri Ashok Kumar, Proprietor M/s Little Enterprises, VPO Bhadwar, Tehsil Nurpur, District Kangra. He was appointed on 1.3.2015 and was drawing salary of Rs.4000/- basic per month till the date of his alleged retrenchment. He has also stated that he continued to work with respondents till 30.6.2019 and completed 240 days of service in each calendar year. He has also mentioned that his nature of work was permanent and technical. He had worked under the direct control and supervision of respondent no.1. He was also provided time to time training by respondent no.1 and was working under the direct control of I&PH department through Junior

Engineer who was monitoring his work and also giving instructions for his work. He has alleged that he was verbally retrenched w.e.f. 30.6.2019 without any prior notice, reason and opportunity of being heard. Despite the fact that he was working with honesty and helping respondents to achieve their objective, no inquiry, show cause notice, charge sheet etc. was ever issued to him thus his termination was arbitrary and deserve to be set aside. The case of respondent no.1 is however stated by RW1 Shri Anurag Sharma, Assistant Executive Engineer, Jal Shakti Sub Division Nurpur who has deposed on oath that petitioner was not serving as pump operator with the department but he was casual labourer under direct control and supervision of contractor/respondent no.2. The payments were being made by department to the contractor and the work was not under the direct control of the department. The work was awarded to contractor for a fixed time and it was responsibility of contractor to run the scheme at his risk and cost. It was prerogative of respondent no.2 to engage and disengage labour of his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operator with the department. Such recruitment is always done by the department after following codal formalities. He has denied that the petitioner was working under the control and supervision of the employees of the department. Respondent no.1 has clearly asserted that petitioner was not working under them but was serving under the direct control and supervision and was employed by respondent no.2 only hence according to respondent no.1 the petitioner has not claim against respondent no.1.

13. Respondent no.2 Shri Jagjit Rai, Authorized Representative of M/s Little Enterprises has appeared on behalf of respondent no.2 and he has denied that the services of petitioner were engaged by respondent no.2 as pump operator w.e.f. 1.3.2015 to 30.6.2019. He has completely denied not only engagement of petitioner but also making payment to the petitioner. It is asserted that petitioner has not placed on record any proof like attendance register, payment record, ID card, ESIC membership, EPF record etc. in order to show his employment with the respondent no.2. Thus according to respondent no.2 there was no relationship of master and servant between respondent no.2 and petitioner. The claim of the petitioner including the allegations of termination and regarding violation of the Industrial Disputes Act has been denied by respondent no.2.

14. Petitioner in his cross-examination by learned Dy. D.A. for respondent no.1 has admitted that the department used to make payment to respondent no.2 who further made payment to the petitioner. He has admitted that there was no advertisement issued by the department for the post of pump operator neither any application form has been filled. He has shown his ignorance to the suggestion that the department had awarded a tender to respondent no.2 for a limited period of time. According to him he was not sent by respondent no.2 to do the awarded work. He has also denied that his documents were deposited with the respondent no.2. He has stated that all the documents were given by him to the department however no oral or documentary evidence in this regard could be produced by him. He has admitted that he has not produced any record pertaining to the salary neither the bank statement. He has denied that these documents have been deliberately not produced before this court as the payments to him were being made by respondent no.2. Respondent no.1 has not completely denied that petitioner was working with respondent no.2 but they have asserted that the petitioner was working after being engaged by respondent no.2 without direct control and supervision of respondent no.1. Contrary to this respondent no.2 completely denied that petitioner had ever worked with them in any capacity or any payments were made to petitioner at any interval. RW2 has admitted in his cross-examination that he was issued a tender by respondent no.1 for manpower supply and repairs of a water scheme which according to him was being run by him. He has denied that he had employed petitioner with him and paid salary to the petitioner. He has admitted that he carried out the work as per the tender and received payments vide Ext. RW1/F through RTGS. In his cross-examination he has completely denied that the petitioner has ever worked with him as pump operator. He has also denied that he used to deduct EPF from salary of the petitioner but never deposited it. He has denied that he paid cash in salary to

the petitioner and did not pay overtime and minimum wages. He has denied that I&PH Department conducted training of petitioner. He has denied that he has committed the violation of the provisions of the Industrial Disputes Act while terminating the services of the petitioner.

15. Considering the claim which has been preferred on behalf of petitioner the onus to prove the employer and employee relationship between petitioner and respondent no.1 or employer and employee relationship between petitioner and respondent no.2 was solely on the petitioner. This fact had been denied and contested by respondents no.1 and 2 hence oral and documentary evidence in this regard was to be initially led by the petitioner. The Hon'ble Supreme Court in **Workmen of Nilgiri Coop. Mkt. Society vs. State of Tamil Nadu & Ors, (2004) 3 SCC 514** has held that onus and decree of proof of employment primarily relates on the person who claims to be a workman, the relevant paragraphs of the said judgment as under:—

“47 It is a well-settled principle of law that the person who sets up a plea of existence of relationship of employer and employee, the burden would be upon him.

48. In N.C. John Vs. Secretary Thodupuzha Taluk Shop and Commercial Establishment Workers' Union and Others [1973 Lab. I.C. 398], the Kerala High Court held:

"The burden of proof being on the workmen to establish the employer-employee relationship an adverse inference cannot be drawn against the employer that if he were to produce books of accounts they would have proved employer-employee relationship."

49. In Swapan das Gupta and Others Vs. The First Labour Court of West Bengal and Others [1975 Lab. I.C. 202] it has been held:

"Where a person asserts that he was a workmen of the Company, and it is denied by the Company, it is for him to prove the fact. It is not for the Company to prove that he was not an employee of the Company but of some other person."

50. The question whether the relationship between the parties is one of the employer and employee is a pure question of fact and ordinarily the High Court while exercising its power of judicial review shall not interfere therewith unless the finding is manifestly or obviously erroneous or perverse.

16. In the present case except the bald statement of petitioner there is no other oral and documentary evidence pointing towards the fact that petitioner has been appointed and was terminated by the order of respondent no.1 or respondent no.2. Respondent no.1 have produced on record the various tenders copy of notice inviting tenders and award letters Ext. RW1/B to Ext. RW1/E. It appears that from time to the work of pump operator was being awarded on contractual basis to different contractors. RW2 has also admitted this fact. There is no oral or documentary evidence to prove that any training was being imparted by I&PH department to the petitioner or there was direct control and supervision of the employee of I&PH over work and conduct of the petitioner on day to day basis. There is no document in the form of any attendance register, payment of salary or any other important documents to show that the petitioner was working with respondent no.1 as well as respondent no.2. Respondent 2 has denied that the petitioner at any point of time had rendered his services with respondent no.2. In absence of any cogent oral and documentary evidence it cannot be held that the petitioner had worked with respondents for the period alleged in his affidavit and claim.

17. The specific question has been to RW1 Shri Anurag Sharma regarding obtaining of licence from licensing authority i.e. Labour Officer-cum-License registering officer Dharamshala to engage the contractor and deploy the contract labour. He has admitted that no such license has been obtained from the licensing authority. It is held by the Hon'ble Supreme Court in **Dena Nath and Ors vs. National Fertilizers Ltd. and Ors, AIR 1992 SC 457** as follows:—

“...The only consequences provided in the Act where either the principal employer or the labour contractor violates the provision of Sections 9 and 12 respectively is the penal provision, as envisaged under the Act for which reference may be made to Sections 23 and 25 of the Act. We are thus of the firm view that in proceedings under Article 226 of the Constitution merely because contractor or the employer had violated any provision of the Act or the rules, the Court could not issue any mandamus for deeming the contract labour as having become the employees of the principal employer. We would not like to express any view on the decision of the Karnataka High Court or of the Gujarat High Court (supra) since these decisions are under challenge in this court, but we would place on record that we do not agree with the aforequoted observations of the Madras High Court about the effect of non-registration of the principal employer or the non-licensing of the labour contractor nor with the view of Bombay High Court in the aforesaid case. We are of the view that the decisions of the Kerala High Court and Delhi High Court are correct and we approve the same”.

18. Merely the fact that respondent no.1 was not able to produce the requisite licence under the act of governing employment of contract labour would not itself established the case of the petitioner. There is nothing on record except the statement of petitioner to prove that petitioner was employed either by respondent no.1 or by respondent no.2. There is no evidence to show that the respondent no.1 had direct control and supervision over the work of petitioner. Record of payment has also not been produced before this court. In these circumstances the claim of the petitioner against the respondents is not established from the oral as well as documentary evidence produced before this court and in these circumstances it cannot be held that petitioner's services were retrenched by the respondents. The claim petition is not maintainable. Hence issues no.1 and 3 are decided in the favour of the respondents.

ISSUE NO.2

19. The claim raised by the petitioner was upon the proof of employer and employee relationship, between the petitioner and the respondents. There are no evidence produced by the petitioner in order to substantiate the claim made by him in the claim petition and the facts deposed by way of affidavit. Hence not benefits as prayed for can be granted in his favour. This issue is decided accordingly.

ISSUE NO.4

20. The onus to prove the fact was on respondents. No oral or documentary evidence suggests that any material facts were suppressed hence this issue is decided accordingly.

RELIEF

21. In view of my findings on the issues no. 1, 2, 3 and 4 above the claim petition filed on behalf of the petitioner is not maintainable and the same is dismissed. Parties are left to bear their costs.

22. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2025.

Sd/-

(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

**IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-
 CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)**

Reference No. : 40/2022
 Date of Institution : 05-3-2022
 Date of Decision : 28-06-2025

Shri Ravinder Kumar s/o Shri Jagdish Parkash, r/o VPO Raja Ka Bagh, Tehsil Nurpur,
 District Kangra, H.P. *..Petitioner.*

Versus

1. The Executive Engineer, I&PH Division, Nurpur, District Kangra, H.P. (Principal Employer).
2. The Proprietor, M/s Vishwakarma Engineering Services Jachh, P.O. Jassur, Tehsil Nurpur,
 District Kangra, H.P. (Contractor) *..Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rohit Kumar, Ld. Adv.
 For the Respondent No.1 : Sh. B.C.Katoch, Ld. Dy. D.A.
 For Respondent No.2 : Sh. Vijay Kaundal, Ld. Adv.

AWARD

1. The following reference has been received by this court for adjudication from the appropriate Government/Joint Labour Commissioner:—

“Whether the termination of services of Shri Ravinder Kumar s/o Shri Jagdish Parkash, r/o V.P.O. Raja Ka Bagh, Tehsil Nurpur, District Kangra, H.P. by (i) the Executive Engineer, I&PH Division Nurpur, District Kangra, H.P. (Principal Employer), (ii) Shri Ashok Kumar, Proprietor, M/S Little Enterprises, V.P.O. Bhadwar, Tehsil Nurpur, District Kangra, H.P. (Contractor) during 01.7.2019 (as alleged by workman), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and

justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that the petitioner was appointed as Pump Operator by the respondent concern on 1.3.2012 and drawing salary of Rs.4000/- per month and had continued till his termination/retrenchment. It is asserted that petitioner had served with respondent concern till 30.6.2019 for more than one year and had completed more than 240 days in each calendar year in accordance with Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had worked indigenously with full honesty with the respondent concern till 30.6.2019. The services of the petitioner were verbally retrenched/terminated w.e.f. 30.6.2019 without given any prior notice, reason and opportunity of being heard as well as without following the procedure in accordance with the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947. It is alleged that junior and similar situated persons to the petitioner are still working with the respondent concern however the services of the petitioner were dispensed with by the respondent which was arbitrary without any reason, notice and without holding any inquiry and without affording an opportunity of being heard. On 30.6.2019 when the petitioner went for duty as usual he was denied to enter the gate of respondent concern and was verbally told that his services had been retrenched. Thereafter, the petitioner had visited the respondent for several days to seek reason of his termination and requested the authority to take him back in job. The respondent neither addressed the grievance of petitioner nor reinstated his services however petitioner had sent demand notice to the respondent as per provisions of the Industrial Disputes Act, 1947. Thereafter proceedings were initiated before the Conciliation Officer and after two hearings the matter was not proceeded. The petitioner had sent a representation to the Labour Commissioner with regard to his grievance. He was called for conciliation but no solution was reached and the grievance of the petitioner remained as such till date. It is alleged that the termination of the petitioner was without any logical and fair reason and without following the provisions of the Industrial Disputes Act, 1947. It is asserted that during pendency of conciliation proceedings respondents betrayed the trust of petitioner/workman which directly amounts to contravention of Section 33 of the Industrial Disputes Act. It is alleged that dismissal of the services of the petitioner was in violation of Section 25 of the Industrial Disputes Act and was illegal, unjust, unconstitutional and void ab-initio and same sought to be quashed and declared null and void. It is therefore prayed that petitioner may be reinstated with all consequential benefits, seniority, back wages and be treated as per his original appointment with all consequential relief.

3. In reply on behalf of respondent no.1 preliminary submissions qua maintainability and suppression of material facts have been raised. On merit, it is asserted that the work awarded to the contractor for a particular time and it was the responsibility of the contractor to run the scheme at his risk and cost. It is asserted that it was the prerogative of respondent no.2 to engaged and disengage labour at his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operators as the recruitment for the post of pump operator was to be done by the department only after following codal formalities. It is denied that his post and nature of work was permanent and under direct control and supervision of respondent no.1. It is further denied that the training was given to petitioner through employees of the department and the department had monitored the work of petitioner. It is denied that respondent no.1 had condemned the petitioner unheard and violated the principles of natural justice. It is denied that the petitioner was appointed as pump operator by respondent no.1 on 1.3.2015 and was drawing salary of Rs.4000/- per month. In-fact the work was awarded to contractor to run and maintenance of scheme for particular time for which necessary payment was released to the contractor from time to time. It is denied that petitioner had served with respondent department till 28.6.2018 and completed more than 240 days in any of the years. It is asserted that the petitioner had worked under the direct control of contractor. It is denied that the petitioner had worked with full honesty till 30.6.2019. It is denied that the petitioner had worked for more than 10

hours daily and was not paid over time charges. It is asserted that the work was awarded to the contractor for particular time. It is further denied that the petitioner was verbally retrenched or terminated by the department w.e.f. 30.6.2019. It is asserted that the petitioner was engaged by the contractor for a particular time period directly under the supervision and control of contractor and as such question of issuing any show cause notice to petitioner does not arise. It is asserted that the respondent department had not violated any provisions of the Industrial Disputes Act. All other parawise averments made in the petition are denied and it is prayed that the petition may be dismissed.

4. In reply on behalf of respondent no.2 preliminary submissions qua maintainability, locus standi, suppression of material facts have been raised. On merits, it is denied that petitioner had worked with respondent no.2 in the capacity of pump operator w.e.f. 1.3.2012 to 30.6.2019. Neither the petitioner was engaged by respondent no.2 nor payments were made in this regard to the petitioner by respondent no.2. It is asserted that from the contents of para no.2 of the claim petition of the petitioner it was not clear under which respondent the petitioner had worked in the capacity of pump operator but respondent no.2 has never appointed the petitioner w.e.f. 1.3.2015 @ 4000/- per month till the date of his alleged termination. It is specifically denied that petitioner had never worked with respondent no.2 till 30.6.2019 and that he served more than one year and that had completed 240 days as per Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had not worked for more than 10 hours a day and was not paid overtime charges as per provision of law. It is denied that the petitioner was never terminated by respondent no.2 w.e.f. 30.6.2019 and as such question of giving him prior notice does not arise at all as well as no violation of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 had been committed by respondent no.2. It is asserted that petitioner had not worked with replying respondent and question of retaining junior persons does not arise at all as the petitioner has failed to disclose the name of his junior in the petition. Though respondent no.2 had not terminated the services of petitioner and as such question of holding inquiry, issuing of charge sheet does not arise at all. It is asserted that respondent no.2 had never told to petitioner to not to report for duties on 30.6.2019 as the respondent no.2 had never installed any pump house in his establishment. It is asserted that the respondent no.2 had not terminated the services of petitioner as well as not violated Sections 25-F, 25-H and 33 of the Industrial Disputes Act. It is denied that during conciliation proceedings respondent no.2 had given assurance to petitioner with regard to his re-engagement. It is denied that the respondent no.2 had employed any helper. Other averments made in the petition were denied and it is prayed that the claim of the petitioner deserves to be dismissed.

5. No rejoinder was filed on behalf of petitioner.

6. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the services of the petitioner were illegally terminated by the respondents w.e.f. 1.7.2019 as alleged? ..*OPP.*
2. If issue No.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, compensation and past service benefits as claimed? ..*OPP.*
3. Whether the petition is not maintainable, as alleged? ..*OPR.*
4. Whether the petitioner has suppressed the material facts and has not come to the Court with clean hands, as alleged? ..*OPR.*

RELIEF

7. The petitioner in order to prove his case examined himself by way of affidavit Ext. PW1/A wherein he reiterated the facts alleged in the claim petition.

8. Respondent no.1 examined Er. Anurag Sharma, Executive Engineer, Jal Shakti Sub Division Jassur by way of affidavit Ex. RW1/A wherein he reiterated the facts alleged in the reply. He also produced on record copies of inviting tenders and award letters Ext. RW1/B to Ext. RW1/E, copy of award RW1/F along with revised schedule of quantity, Award letter dated 24.6.2013 Ext. RW1/G, comparative statement Ext. RW1/H, Award letter Ext. RW1/J, Award letter Ext. RW1/K, Award letter Ext. RW1/L, Award letter Ext. RW1/M, letters RW1/N and Ext. RW1/O and copies of payment Ext. RW1/P. Respondent no.2 has examined Shri Hem Raj, Proprietor, Vishwakarma Engineering Services by way of affidavit Ext. RW2/A wherein he reiterated the facts alleged in the reply.

9. I have heard the learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent no.1 and learned counsel for respondent no.2 at length and records perused.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	:	No
Issue No. 2	:	Decided accordingly
Issue No. 3	:	Yes
Issue No. 4	:	No
Relief	:	Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS**ISSUES NO.1 AND 3**

11. All the above mentioned issues shall be taken up together for the purpose of adjudication.

12. The petitioner has stated on oath that he was appointed as pump operator and was serving with contractor MD of Vishwakarma Engineering Services Jachh (Jasoor), District Kangra, H.P. since 1.3.2012 to 30.6.2019. He was appointed on 1.3.2012 and was drawing salary of Rs.4000/- basic per month till the date of his alleged retrenchment. He has also stated that he continued to work with respondents till 30.6.2019 and completed 240 days of service in each calendar year. He has also mentioned that his nature of work was permanent and technical. He had worked under the direct control and supervision of respondent no.1. He was also provided time to time training by respondent no.1 and was working under the direct control of I&PH department through Junior Engineer who was monitoring his work and also giving instructions for his work. He has alleged that he was verbally retrenched w.e.f. 30.6.2019 without any prior notice, reason and opportunity of being heard. Despite the fact that he was working with honesty and helping respondents to achieve their objective, no inquiry, show cause notice, charge sheet etc. was ever issued to him thus his termination was arbitrary and deserve to be set aside. The case of respondent no.1 is however stated by RW1 Shri Anurag Sharma, Assistant Executive Engineer, Jal Shakti Sub

Division Nurpur who has deposed on oath that petitioner was not serving as pump operator with the department but he was casual labourer under direct control and supervision of contractor/respondent no.2. The payments were being made by department to the contractor and the work was not under the direct control of the department. The work was awarded to contractor for a fixed time and it was responsibility of contractor to run the scheme at his risk and cost. It was prerogative of respondent no.2 to engage and disengage labour of his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operator with the department. Such recruitment is always done by the department after following codal formalities. He has denied that the petitioner was working under the control and supervision of the employees of the department. Respondent no.1 has clearly asserted that petitioner was not working under them but was serving under the direct control and supervision and was employed by respondent no.2 only hence according to respondent no.1 the petitioner has not claim against respondent no.1.

13. Respondent no.2 Shri Hem Raj, Proprietor, M/s Vishwakarma Engineering Services Jachh (Jasoor), Tehsil Nurpur, District Kangra has appeared on behalf of respondent no.2 and he has asserted that the services of petitioner were never engaged by respondent no.2 as pump operator w.e.f. 1.3.2012 to 30.6.2019. He has completely denied not only engagement of petitioner but also making payment to the petitioner. It is asserted that petitioner has not placed on record any proof like attendance register, payment record, ID card, ESIC membership, EPF record etc. in order to show his employment with the respondent no.2. Thus according to respondent no.2 there was no relationship of master and servant between respondent no.2 and petitioner. The claim of the petitioner including the allegations of termination and regarding violation of the Industrial Disputes Act has been denied by respondent no.2.

14. Petitioner in his cross-examination by learned Dy. D.A. for respondent no.1 has admitted that the department used to make payment to respondent no.2 who further made payment to the petitioner. He has admitted that there was no advertisement issued by the department for the post of pump operator neither any application form has been filled. He has shown his ignorance to the suggestion that the department had awarded a tender to respondent no.2 for a limited period of time. According to him he was not sent by respondent no.2 to do the awarded work. He has also denied that his documents were deposited with the respondent no.2. He has stated that all the documents were given by him to the department however no oral or documentary evidence in this regard could be produced by him. He has admitted that he has not produced any record pertaining to the salary neither the bank statement. He has denied that these documents have been deliberately not produced before this court as the payments to him were being made by respondent no.2. Respondent no.1 has not completely denied that petitioner was working with respondent no.2 but they have asserted that the petitioner was working after being engaged by respondent no.2 without direct control and supervision of respondent no.1. Contrary to this respondent no.2 completely denied that petitioner had ever worked with them in any capacity or any payments were made to petitioner at any interval. RW2 has admitted in his cross-examination that he was issued a tender by respondent no.1 for manpower supply and repairs of a water scheme which according to him was being run by him. He has denied that he had employed petitioner with him and paid salary to the petitioner. He has admitted that he carried out the work as per the tender and received payments vide Ext. RW1/P through RTGS. In his cross-examination he has completely denied that the petitioner has ever worked with him as pump operator. He has also denied that he used to deduct EPF from salary of the petitioner but never deposited it. He has denied that he paid cash in salary to the petitioner and did not pay overtime and minimum wages. He has denied that I&PH Department conducted training of petitioner. He has denied that he has committed the violation of the provisions of the Industrial Disputes Act while terminating the services of the petitioner.

15. Considering the claim which has been preferred on behalf of petitioner the onus to prove the employer and employee relationship between petitioner and respondent no.1 or employer and employee relationship between petitioner and respondent no.2 was solely on the petitioner. This fact had been denied and contested by respondents no.1 and 2 hence oral and documentary evidence in this regard was to be initially led by the petitioner. The Hon'ble Supreme Court in **Workmen of Nilgiri Coop. Mkt. Society vs. State of Tamil Nadu & Ors, (2004) 3 SCC 514** has held that onus and decree of proof of employment primarily relates on the person who claims to be a workman, the relevant paragraphs of the said judgment as under:—

“47 It is a well-settled principle of law that the person who sets up a plea of existence of relationship of employer and employee, the burden would be upon him.

48. In N.C. John Vs. Secretary Thodupuzha Taluk Shop and Commercial Establishment Workers' Union and Others [1973 Lab. I.C. 398], the Kerala High Court held:

"The burden of proof being on the workmen to establish the employer- employee relationship an adverse inference cannot be drawn against the employer that if he were to produce books of accounts they would have proved employer-employee relationship."

49. In Swapan das Gupta and Others Vs. The First Labour Court of West Bengal and Others [1975 Lab. I.C. 202] it has been held: "Where a person asserts that he was a workmen of the Company, and it is denied by the Company, it is for him to prove the fact. It is not for the Company to prove that he was not an employee of the Company but of some other person."

50. The question whether the relationship between the parties is one of the employer and employee is a pure question of fact and ordinarily the High Court while exercising its power of judicial review shall not interfere therewith unless the finding is manifestly or obviously erroneous or perverse.

16. In the present case except the bald statement of petitioner there is no other oral and documentary evidence pointing towards the fact that petitioner has been appointed and was terminated by the order of respondent no.1 or respondent no.2. Respondent no.1 have produced on record the various tenders copy of notice inviting tenders and award letters Ext. RW1/B to Ext. RW1/N. It appears that from time to the work of pump operator was being awarded on contractual basis to different contractors. RW2 has also admitted this fact. There is no oral or documentary evidence to prove that any training was being imparted by I&PH department to the petitioner or there was direct control and supervision of the employee of I&PH over work and conduct of the petitioner on day to day basis. There is no document in the form of any attendance register, payment of salary or any other important documents to show that the petitioner was working with respondent no.1 as well as respondent no.2. Respondent 2 has denied that the petitioner at any point of time had rendered his services with respondent no.2. In absence of any cogent oral and documentary evidence it cannot be held that the petitioner had worked with respondents for the period alleged in his affidavit and claim.

17. The specific question has been to RW1 Shri Anurag Sharma regarding obtaining of licence from licensing authority i.e. Labour Officer-cum-License registering officer Dharamshala to engage the contractor and deploy the contract labour. He has admitted that no such license has been obtained from the licensing authority. It is held by the Hon'ble Supreme Court in **Dena Nath and Ors vs. National Fertilizers Ltd. and Ors, AIR 1992 SC 457** as follows:—

“...The only consequences provided in the Act where either the principal employer or the labour contractor violates the provision of Sections 9 and 12 respectively is the penal provision, as envisaged under the Act for which reference may be made to Sections 23 and 25 of the Act. We are thus of the firm view that in proceedings under Article 226 of the Constitution merely because contractor or the employer had violated any provision of the Act or the rules, the Court could not issue any mandamus for deeming the contract labour as having become the employees of the principal employer. We would not like to express any view on the decision of the Karnataka High Court or of the Gujarat High Court (supra) since these decisions are under challenge in this court, but we would place on record that we do not agree with the aforequoted observations of the Madras High Court about the effect of non-registration of the principal employer or the non-licensing of the labour contractor nor with the view of Bombay High Court in the aforesaid case. We are of the view that the decisions of the Kerala High Court and Delhi High Court are correct and we approve the same”.

18. Merely the fact that respondent no.1 was not able to produce the requisite licence under the act of governing employment of contract labour would not itself established the case of the petitioner. There is nothing on record except the statement of petitioner to prove that petitioner was employed either by respondent no.1 or by respondent no.2. There is no evidence to show that the respondent no.1 had direct control and supervision over the work of petitioner. Record of payment has also not been produced before this court. In these circumstances the claim of the petitioner against the respondents is not established from the oral as well as documentary evidence produced before this court and in these circumstances it cannot be held that petitioner's services were retrenched by the respondents. The claim petition is not maintainable. Hence issues no.1 and 3 are decided in the favour of the respondents.

ISSUE NO.2

19. The claim raised by the petitioner was upon the proof of employer and employee relationship, between the petitioner and the respondents. There are no evidence produced by the petitioner in order to substantiate the claim made by him in the claim petition and the facts deposed by way of affidavit. Hence not benefits as prayed for can be granted in his favour. This issue is decided accordingly.

ISSUE NO.4

20. The onus to prove the fact was on respondents. No oral or documentary evidence suggests that any material facts were suppressed hence this issue is decided accordingly.

RELIEF

21. In view of my findings on the issues no. 1, 2, 3 and 4 above the claim petition filed on behalf of the petitioner is not maintainable and the same is dismissed. Parties are left to bear their costs.

22. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

**IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-
CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)**

Reference No. : 41/2022
Date of Institution : 05-3-2022
Date of Decision : 28-06-2025

Shri Anil Kumar s/o Shri Kishori Lal, r/o Village Dhar, P.O. Baranda, Tehsil Nurpur,
District Kangra, H.P. *..Petitioner.*

Versus

1. The Executive Engineer, I&PH Division, Nurpur, District Kangra, H.P. (Principal Employer)
2. Shri Chain Singh, Government Contractor, Dalhousie Road, Near Mamoon, Pathankot, Punjab
(Contractor) *..Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rohit Kumar, Ld. Adv.
For the Respondent No.1 : Sh. B.C.Katoch, Ld. Dy. D.A.
For Respondent No.2 : Sh. Vijay Kaundal, Ld. Adv.

AWARD

The following reference has been received by this court for adjudication from the appropriate Government/Joint Labour Commissioner:—

“Whether the termination of services of Shri Anil Kumar s/o Shri Kishori Lal, r/o Village Dhar, P.O. Baranda, Tehsil Nurpur, District Kangra, H.P. by (i) the Executive Engineer, I&PH Division, Nurpur, District Kangra, H.P. (Principal Employer), (ii) Shri Chain Singh, Government Contractor, Dalhousie Road, Near Mamoon, Pathankot, Punjab (Contractor) w.e.f. 01.07.2019 (as alleged by workman), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. The brief facts as stated in the claim petition are that the petitioner was appointed as Pump Operator by the respondent concern on 1.3.2012 and drawing salary of Rs.4000/- per month and had continued till his termination/retrenchment. It is asserted that petitioner had served with respondent concern till 30.6.2019 for more than one year and had completed more than 240 days in each calendar year in accordance with Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had worked indigenously with full honesty with the respondent concern till 30.6.2019. It is asserted that petitioner had worked for more than 10 hours a day with the respondent and was not paid overtime charges as per the provisions of law. The services of the petitioner were verbally retrenched/terminated w.e.f. 30.6.2019 without given any prior notice, reason and opportunity of being heard as well as without following the procedure in accordance with the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947. It is alleged that junior and similar situated persons to the petitioner are still working with the respondent concern however the services of the petitioner were dispensed with by the respondent which was arbitrary without any reason, notice and without holding any inquiry and without affording an opportunity of being heard. On 30.6.2019 when the petitioner went for duty as usual he was denied to enter the gate of respondent concern and was verbally told that his services had been retrenched. Thereafter, the petitioner had visited the respondent for several days to seek reason of his termination and requested the authority to take him back in job. The respondent neither addressed the grievance of petitioner nor reinstated his services however petitioner had sent demand notice to the respondent as per provisions of the Industrial Disputes Act, 1947. Thereafter proceedings were initiated before the Conciliation Officer and after two hearings the matter was not proceeded. The petitioner had sent a representation to the Labour Commissioner with regard to his grievance. He was called for conciliation but no solution was reached and the grievance of the petitioner remained as such till date. It is alleged that the termination of the petitioner was without any logical and fair reason and without following the provisions of the Industrial Disputes Act, 1947. It is asserted that during pendency of conciliation proceedings respondents betrayed the trust of petitioner/workman was directly amounts to contravention of Section 33 of the Industrial Disputes Act. It is alleged that dismissal of the services of the petitioner was in violation of Section 25 of the Industrial Disputes Act and was illegal, unjust, unconstitutional and void ab-initio and same sought to be quashed and declared null and void. It is therefore prayed that petitioner may be reinstated with all consequential benefits, seniority, back wages and be treated as per his original appointment with all consequential relief.

3. In reply on behalf of respondent no.1 preliminary submissions qua maintainability and suppression of material facts have been raised. On merit, it is asserted that the work was awarded to the contractor for a particular time and it was the responsibility of the contractor to run the scheme at his risk and cost. It is asserted that it was the prerogative of respondent no.2 to engaged and disengage labour at his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operators as the recruitment for the post of pump operator was to be done by the department only after following codal formalities. It is denied that his post and nature of work was permanent and under direct control and supervision of respondent no.1. It is further denied that the training was given to petitioner through employees of the department and the department had monitored the work of petitioner. It is denied that respondent no.1 had condemned the petitioner unheard and violated the principles of natural justice. It is denied that the petitioner was appointed as pump operator by respondent no.1 on 1.3.2012 and was drawing salary of Rs.4000/- per month. In-fact the work was awarded to contractor to run and maintenance of scheme for particular time for which necessary payment was released to the contractor from time to time. It is denied that petitioner had served with respondent department till 30.6.2019 and completed more than 240 days in any of the years. It is asserted that the petitioner had worked under the direct control of contractor. It is denied that the petitioner had worked with full honesty till 30.6.2019. It is denied that the petitioner had worked for more than 10 hours daily and was not paid over time charges. It is asserted that the work was awarded to the

contractor for particular time. It is further denied that the petitioner was verbally retrenched or terminated by the department w.e.f. 30.6.2019. It is asserted that the petitioner was engaged by the contractor for a particular time period directly under the supervision and control of contractor and as such question of issuing any show cause notice to petitioner does not arise. It is asserted that the respondent department had not violated any provisions of the Industrial Disputes Act. All other averments made in the petition are denied and it is prayed that the petition may be dismissed.

4. In reply on behalf of respondent no.2 preliminary submissions qua maintainability, locus standi, suppression of material facts have been raised. On merits, it is asserted that from the contents of para no.2 of the claim petition of the petitioner it was not clear under which respondent the petitioner had worked in the capacity of pump operator but respondent no.2 has never appointed the petitioner w.e.f. 1.3.2015 @ 4000/- per month till the date of his alleged termination. It is specifically denied that petitioner had never worked with respondent no.2 till 30.6.2019 and that he served more than one year and had completed 240 days as per Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had not worked for more than 10 hours a day and was not paid overtime charges as per provision of law. It is denied that the petitioner was never terminated by respondent no.2 w.e.f. 30.6.2019 and as such question of giving him prior notice does not arise at all as well as no violation of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 had been committed by respondent no.2. It is asserted that petitioner had not worked with replying respondent and question of retaining junior persons does not arise at all as the petitioner has failed to disclose the name of his junior in the petition. Though respondent no.2 had not terminated the services of petitioner and as such question of holding inquiry, issuing of charge sheet does not arise at all. It is asserted that respondent no.2 had never told to petitioner not to report for duties on 30.6.2019 as the respondent no.2 had never installed any pump house in his establishment. It is asserted that the respondent no.2 had not terminated the services of petitioner as well as not violated Sections 25-F, 25-H and 33 of the Industrial Disputes Act. It is denied that during conciliation proceedings respondent no.2 had given assurance to petitioner with regard to his re-engagement. It is denied that the respondent no.2 had employed any helper. Other averments made in the petition were denied and it is prayed that the claim of the petitioner deserves to be dismissed.

5. No rejoinder was filed on behalf of petitioner.

6. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:-

1. Whether the services of the petitioner were illegally terminated by the respondents w.e.f. 1.7.2019 as alleged? ..*OPP.*
2. If issue No.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, compensation and past service benefits as claimed? ..*OPP.*
3. Whether the petition is not maintainable, as alleged? ..*OPR.*
4. Whether the petitioner has suppressed the material facts and has not come to the Court with clean hands, as alleged? ..*OPR.*

RELIEF

7. The petitioner in order to prove his case examined himself by way of affidavit Ext. PW1/A wherein he reiterated the facts alleged in the claim petition.

8. Respondent no.1 examined Er. Anurag Sharma, Executive Engineer, Jal Shakti Sub-Division Jassur by way of affidavit Ex. RW1/A wherein he reiterated the facts alleged in the reply. He also produced on record notice inviting tender Ext. RW1/B and Ext. RW1/C, copy of award letter Ext. RW1/D, copy of revised schedule of quantity Ext. RW1/E, copy of award letter dated 7.5.2016 Ext. RW1/F, copy of comparative statement regarding award dated 31.3.2015 Ext. RW1/G, copy of quotation filled by Chain Singh Ext. RW1/H, copy of comparative statement regarding award letter dated 7.5.2016 Ext. RW1/J, copy of letter dated 22.5.2016 Ext. RW1/K, copy of letter dated 19.6.2019 Ext. RW1/L and copy of details of payment made to Chain Singh Ext. RW1/M. Respondent no.2 has examined Shri Chain Singh s/o Shri Puran Singh, r/o VPO Lamini, Tehsil and District Pathankot, Punjab by way of affidavit Ext. RW2/A wherein he reiterated the facts alleged in the reply.

9. I have heard the learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent no.1 and learned counsel for respondent no.2 at length and records perused.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No.1	:	No
Issue No.2	:	Decided accordingly
Issue No.3	:	Yes
Issue No.4	:	No
Relief	:	Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES NO.1 AND 3

11. All the above mentioned issues shall be taken up together for the purpose of adjudication.

12. The petitioner has stated on oath that he was appointed as pump operator and was serving with contractor Shri Chain Singh, Government Contract, Dalhousie Road, Near Mamoon Pathankot, Punjab since 1.3.2012 to 30.6.2019. He was appointed on 1.3.2012 and was drawing salary of Rs.4000/- basic per month till the date of his alleged retrenchment. He has also stated that he continued to work with respondents till 30.6.2019 and completed 240 days of service in each calendar year. He has also mentioned that his nature of work was permanent and technical. He had worked under the direct control and supervision of respondent no.1. He was also provided time to time training by respondent no.1 and was working under the direct control of I&PH department through Junior Engineer who was monitoring his work and also giving instructions for his work. He has alleged that he was verbally retrenched w.e.f. 30.6.2019 without any prior notice, reason and opportunity of being heard. Despite the fact that he was working with honesty and helping respondents to achieve their objective, no inquiry, show cause notice, charge sheet etc. was ever issued to him thus his termination was arbitrary and deserve to be set aside. The case of respondent no.1 is however stated by RW1 Shri Anurag Sharma, Assistant Executive Engineer, Jal Shakti Sub Division Nurpur who has deposed on oath that petitioner was not serving as pump operator with the department but he was casual labourer under direct control and supervision of contractor/

respondent no. 2. The payments were being made by department to the contractor and the work was not under the direct control of the department. The work was awarded to contractor for a fixed time and it was responsibility of contractor to run the scheme at his risk and cost. It was prerogative of respondent no.2 to engage and disengage labour of his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operator with the department. Such recruitment is always done by the department after following codal formalities. He has denied that the petitioner was working under the control and supervision of the employees of the department. Respondent no.1 has clearly asserted that petitioner was not working under them but was serving under the direct control and supervision and was employed by respondent no.2 only hence according to respondent no.1 the petitioner has not claim against respondent no.1.

13. Respondent no.2 Shri Chain Singh has appeared on behalf of respondent no.2 and he has denied that the services of petitioner were engaged by respondent no.2 as pump operator w.e.f. 1.3.2012 to 30.6.2019. He has completely denied not only engagement of petitioner but also making payment to the petitioner. It is asserted that petitioner has not placed on record any proof like attendance register, payment record, ID card, ESIC membership, EPF record etc. in order to show his employment with the respondent no.2. Thus according to respondent no.2 there was no relationship of master and servant between respondent no.2 and petitioner. The claim of the petitioner including the allegations of termination and regarding violation of the Industrial Disputes Act has been denied by respondent no.2.

14. Petitioner in his cross-examination by learned Dy. D.A. for respondent no.1 has admitted that the department used to make payment to respondent no.2 who further made payment to the petitioner. He has admitted that there was no advertisement issued by the department for the post of pump operator neither any application form has been filled. He has shown his ignorance to the suggestion that the department had awarded a tender to respondent no.2 for a limited period of time. According to him he was not sent by respondent no.2 to do the awarded work. He has also denied that his documents were deposited with the respondent no.2. He has stated that all the documents were given by him to the department however no oral or documentary evidence in this regard could be produced by him. He has admitted that he has not produced any record pertaining to the salary neither the bank statement. He has denied that these documents have been deliberately not produced before this court as the payments to him were being made by respondent no.2. Respondent no.1 has not completely denied that petitioner was working with respondent no.2 but they have asserted that the petitioner was working after being engaged by respondent no.2 without direct control and supervision of respondent no.1. Contrary to this respondent no.2 completely denied that petitioner had ever worked with them in any capacity or any payments were made to petitioner at any interval. RW2 has admitted in his cross-examination that he was issued a tender by respondent no.1 for manpower supply and repairs of a water scheme which according to him was being run by him. He has denied that he had employed petitioner with him and paid salary to the petitioner. He has admitted that he carried out the work as per the tender and received payments vide Ext. RW1/M through RTGS. In his cross-examination he has completely denied that the petitioner has ever worked with him as pump operator. He has also denied that he used to deduct EPF from salary of the petitioner but never deposited it. He has denied that he paid cash in salary to the petitioner and did not pay overtime and minimum wages. He has denied that I&PH Department conducted training of petitioner. He has denied that he has committed the violation of the provisions of the Industrial Disputes Act while terminating the services of the petitioner.

15. Considering the claim which has been preferred on behalf of petitioner the onus to prove the employer and employee relationship between petitioner and respondent no.1 or employer and employee relationship between petitioner and respondent no.2 was solely on the petitioner. This fact had been denied and contested by respondents no.1 and 2 hence oral and documentary

evidence in this regard was to be initially led by the petitioner. The Hon'ble Supreme Court in **Workmen of Nilgiri Coop. Mkt. Society vs. State of Tamil Nadu & Ors, (2004) 3 SCC 514** has held that onus and decree of proof of employment primarily relates on the person who claims to be a workman, the relevant paragraphs of the said judgment as under:—

“47 It is a well-settled principle of law that the person who sets up a plea of existence of relationship of employer and employee, the burden would be upon him.

48. In N.C. John Vs. Secretary Thodupuzha Taluk Shop and Commercial Establishment Workers' Union and Others [1973 Lab. I.C. 398], the Kerala High Court held:

"The burden of proof being on the workmen to establish the employer-employee relationship an adverse inference cannot be drawn against the employer that if he were to produce books of accounts they would have proved employer-employee relationship."

49. In Swapan Das Gupta and Others Vs. The First Labour Court of West Bengal and Others [1975 Lab. I.C. 202] it has been held:

"Where a person asserts that he was a workmen of the Company, and it is denied by the Company, it is for him to prove the fact. It is not for the Company to prove that he was not an employee of the Company but of some other person."

50. The question whether the relationship between the parties is one of the employer and employee is a pure question of fact and ordinarily the High Court while exercising its power of judicial review shall not interfere therewith unless the finding is manifestly or obviously erroneous or perverse.

16. In the present case except the bald statement of petitioner there is no other oral and documentary evidence pointing towards the fact that petitioner has been appointed and was terminated by the order of respondent no.1 or respondent no.2. Respondent no.1 have produced on record the various tenders copy of notice inviting tenders and award letters Ext. RW1/B, Ext. RW1/C, Ext. RW1/D and Ext. RW1/F. It appears that from time to the work of pump operator was being awarded on contractual basis to different contractors. RW2 has also admitted this fact. There is no oral or documentary evidence to prove that any training was being imparted by I & PH department to the petitioner or there was direct control and supervision of the employee of I & PH over work and conduct of the petitioner on day to day basis. There is no document in the form of any attendance register, payment of salary or any other important documents to show that the petitioner was working with respondent no.1 as well as respondent no.2. Respondent 2 has denied that the petitioner at any point of time had rendered his services with respondent no.2. In absence of any cogent oral and documentary evidence it cannot be held that the petitioner had worked with respondents for the period alleged in his affidavit and claim.

17. The specific question has been to RW1 Shri Anurag Sharma regarding obtaining of licence from licensing authority i.e. Labour Officer-cum-License registering officer Dharamshala to engage the contractor and deploy the contract labour. He has admitted that no such license has been obtained from the licensing authority. It is held by the Hon'ble Supreme Court in **Dena Nath and Ors vs. National Fertilizers Ltd. and Ors, AIR 1992 SC 457** as follows:—

“....The only consequences provided in the Act where either the principal employer or the labour contractor violates the provision of Sections 9 and 12 respectively is the penal provision, as envisaged under the Act for which reference may be made to Sections

23 and 25 of the Act. We are thus of the firm view that in proceedings under Article 226 of the Constitution merely because contractor or the employer had violated any provision of the Act or the rules, the Court could not issue any mandamus for deeming the contract labour as having become the employees of the principal employer. We would not like to express any view on the decision of the Karnataka High Court or of the Gujarat High Court (supra) since these decisions are under challenge in this court, but we would place on record that we do not agree with the aforequoted observations of the Madras High Court about the effect of non-registration of the principal employer or the non-licensing of the labour contractor nor with the view of Bombay High Court in the aforesaid case. We are of the view that the decisions of the Kerala High Court and Delhi High Court are correct and we approve the same”.

18. Merely the fact that respondent no.1 was not able to produce the requisite licence under the act of governing employment of contract labour would not itself established the case of the petitioner. There is nothing on record except the statement of petitioner to prove that petitioner was employed either by respondent no.1 or by respondent no.2. There is no evidence to show that the respondent no.1 had direct control and supervision over the work of petitioner. Record of payment has also not been produced before this court. In these circumstances the claim of the petitioner against the respondents is not established from the oral as well as documentary evidence produced before this court and in these circumstances it cannot be held that petitioner's services were retrenched by the respondents. The claim petition is not maintainable. Hence issues no.1 and 3 are decided in the favour of the respondents.

ISSUE NO.2

19. The claim raised by the petitioner was upon the proof of employer and employee relationship, between the petitioner and the respondents. There are no evidence produced by the petitioner in order to substantiate the claim made by him in the claim petition and the facts deposed by way of affidavit. Hence not benefits as prayed for can be granted in his favour. This issue is decided accordingly.

ISSUE NO.4

20. The onus to prove the fact was on respondents. No oral or documentary evidence suggests that any material facts were suppressed hence this issue is decided accordingly.

RELIEF

21. In view of my findings on the issues no. 1, 2, 3 and 4 above the claim petition filed on behalf of the petitioner is not maintainable and the same is dismissed. Parties are left to bear their costs.

22. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 42/2022
Date of Institution : 05.3.2022
Date of Decision : 28.06.2025

Shri Parmesh Singh s/o Shri Tarsem Singh, r/o Village Samrail, P.O. Upper Rit, Tehsil Nurpur, District Kangra, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, I&PH Division, Nurpur, District Kangra, H.P. (Principal Employer)
2. Shri Ashok Kumar, Proprietor, M/s Little Enterprises, VPO Bhadwar, Tehsil Nurpur, District Kangra, H.P. (Contractor)*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rohit Kumar, Ld. Adv.
For the Respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.
For Respondent No.2 : Sh. Vijay Kaundal, Ld. Adv.

AWARD

1. The following reference has been received by this court for adjudication from the appropriate Government/Joint Labour Commissioner:—

“Whether the termination of services of Shri Parmesh Singh s/o Shri Tarsem Singh, r/o Village Samrail, P.O. Upper Rit, Tehsil Nurpur, District Kangra, H.P. by (i) the Executive Engineer, I&PH Division, Nurpur, District Kangra, H.P. (Principal Employer) (ii) Shri Ashok Kumar, Proprietor, M/S Little Enterprises, V.P.O. Bhadwar, Tehsil Nurpur, District Kangra, H.P. (Contractor) during June, 2019 (as alleged by workman), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. The brief facts as stated in the claim petition are that the petitioner was appointed as Pump Operator by the respondent concern on 1.3.2015 and drawing salary of Rs.4000/- per month and had continued till his termination/retrenchment. It is asserted that petitioner had served with respondent concern till 30.6.2019 for more than one year and had completed more than 240 days in each calendar year in accordance with Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had worked indigenously with full honesty with the respondent concern till 30.6.2019. It is asserted that petitioner had worked for more than 10 hours a day with the respondent and was not paid overtime charges as per the provisions of law. The services of the petitioner were verbally retrenched/terminated w.e.f. 30.6.2019 without giving any prior notice,

reason and opportunity of being heard as well as without following the procedure in accordance with the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947. It is alleged that junior and similar situated persons to the petitioner are still working with the respondent concern however the services of the petitioner were dispensed with by the respondent which was arbitrary without any reason, notice and without holding any inquiry and without affording an opportunity of being heard. On 30.6.2019 when the petitioner went for duty as usual he was denied to enter the gate of respondent concern and was verbally told that his services had been retrenched. Thereafter, the petitioner had visited the respondent for several days to seek reason of his termination and requested the authority to take him back in job. The respondent neither addressed the grievance of petitioner nor reinstated his services however petitioner had sent demand notice to the respondent as per provisions of the Industrial Disputes Act, 1947. Thereafter proceedings were initiated before the Conciliation Officer and after two hearings the matter was not proceeded. The petitioner had sent a representation to the Labour Commissioner with regard to his grievance. He was called for conciliation but no solution was reached and the grievance of the petitioner remained as such till date. It is alleged that the termination of the petitioner was without any logical and fair reason and without following the provisions of the Industrial Disputes Act, 1947. It is asserted that during pendency of conciliation proceedings respondents betrayed the trust of petitioner/workman which directly amounts to contravention of Section 33 of the Industrial Disputes Act. It is alleged that dismissal of the services of the petitioner was in violation of Section 25 of the Industrial Disputes Act and was illegal, unjust, unconstitutional and void ab-initio and same sought to be quashed and declared null and void. It is therefore prayed that petitioner may be reinstated with all consequential benefits, seniority, back wages and be treated as per his original appointment with all consequential relief.

3. In reply on behalf of respondent no.1 preliminary submissions qua maintainability and suppression of material facts have been raised. On merit, it is asserted that the work was awarded to the contractor for a particular time and it was the responsibility of the contractor to run the scheme at his risk and cost. It is asserted that it was the prerogative of respondent no.2 to engaged and disengage labour at his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operators as the recruitment for the post of pump operator was to be done by the department only after following codal formalities. It is denied that his post and nature of work was permanent and under direct control and supervision of respondent no.1. It is further denied that the training was given to petitioner through employees of the department and the department had monitored the work of petitioner. It is denied that respondent no.1 had condemned the petitioner unheard and violated the principles of natural justice. It is denied that the petitioner was appointed as pump operator by respondent no.1 on 1.3.2015 and was drawing salary of Rs.4000/- per month. Infact the work was awarded to contractor to provide the work to run and maintenance of scheme for particular time for which necessary payment was released to the contractor from time to time. It is denied that petitioner had served with respondent department till 30.6.2019 and completed more than 240 days in any of the years. It is asserted that the petitioner had worked under the direct control of contractor. It is denied that the petitioner had worked with full honesty till 30.6.2019. It is denied that the petitioner had worked for more than 10 hours daily and was not paid over time charges. It is asserted that the work was awarded to the contractor for particular time. It is further denied that the petitioner was verbally retrenched or terminated by the department w.e.f. 30.6.2019. It is asserted that the petitioner was engaged by the contractor for a particular time period directly under the supervision and control of contractor and as such question of issuing any show cause notice to petitioner does not arise. It is asserted that the respondent department had not violated any provisions of the Industrial Disputes Act. All other parawise averments made in the petition are denied and it is prayed that the petition may be dismissed.

4. In reply on behalf of respondent no.2 preliminary submissions qua maintainability, locus standi, suppression of material facts have been raised. On merits, it is denied that petitioner

had worked with respondent no.2 in the capacity of pump operator w.e.f. 1.3.2015 to 30.6.2019. Neither the petitioner was engaged by the respondent no.2 nor payment was made to him. The respondent no.2 has never engaged the petitioner w.e.f. 1.3.2015 @ 4000/- per month till the date of his termination. It is specifically denied that petitioner had never worked with respondent no.2 till 30.6.2019 and that he served more than one year and had completed 240 days as per Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had not worked for more than 10 hours a day and was not paid overtime charges as per provision of law. It is denied that the petitioner was never terminated by respondent no.2 w.e.f. 30.6.2019 and as such question of giving him prior notice does not arise at all as well as no violation of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 had been committed by respondent no.2. It is asserted that petitioner had not worked with replying respondent and question of retaining junior persons does not arise at all as the petitioner has failed to disclose the name of his junior in the petition. Though respondent no.2 had not terminated the services of petitioner and as such question of holding inquiry, issuing of charge sheet does not arise at all. It is asserted that the respondent no.2 had not terminated the services of petitioner as well as not violated Sections 25-F, 25-H and 33 of the Industrial Disputes Act. It is denied that the respondent no.2 had retained junior and workman had not disclosed name of his junior. Other averments made in the petition were denied and it is prayed that the claim of the petitioner deserves to be dismissed.

5. No rejoinder was filed on behalf of petitioner.

6. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the services of the petitioner were illegally terminated by the respondents during June, 2019 as alleged? ..*OPP.*
2. If issue No.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, compensation and past service benefits as claimed? ..*OPP.*
3. Whether the petition is not maintainable, as alleged? ..*OPR.*
4. Whether the petitioner has suppressed the material facts and has not come to the Court with clean hands, as alleged? ..*OPR.*

RELIEF

7. The petitioner in order to prove his case examined himself by way of affidavit Ext. PW1/A wherein he reiterated the facts alleged in the claim petition.

8. Respondent no.1 examined Er. Anurag Sharma, Executive Engineer, Jal Shakti Sub Division Jassur by way of affidavit Ex. RW1/A wherein he reiterated the facts alleged in the reply. He also produced on record copy of notice inviting tender and award letters Ext. RW1/B and Ext. RW1/C, copy of award letter Ext. RW1/D, copy of revised schedule of quantity Ext. RW1/E, award letter dated 12.7.2016 Ext. RW1/F, comparative statement Ext. RW1/G and details of payment made to Ashok Kumar Ext. RW1/H. Respondent no.2 has examined Shri Jagjit Rai, Authorized Representative, M/s Little Enterprises by way of affidavit Ext. RW2/A wherein he reiterated the facts alleged in the reply.

9. I have heard the learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent no.1 and learned counsel for respondent no.2 at length and records perused.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No.1	:	No
Issue No.2	:	Decided accordingly
Issue No.3	:	Yes
Issue No.4	:	No
Relief.	:	Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES NO.1 AND 3

11. All the above mentioned issues shall be taken up together for the purpose of adjudication.

12. The petitioner has stated on oath that he was appointed as pump operator and was serving with contractor Shri Ashok Kumar, Proprietor M/s Little Enterprises, VPO Bhadwar, Tehsil Nurpur, District Kangra. He was appointed on 1.3.2015 and was drawing salary of Rs.4000/- basic per month till the date of his alleged retrenchment. He has also stated that he continued to work with respondents till 30.6.2019 and completed 240 days of service in each calendar year. He has also mentioned that his nature of work was permanent and technical. He had worked under the direct control and supervision of respondent no.1. He was also provided time to time training by respondent no.1 and was working under the direct control of I&PH department through Junior Engineer who was monitoring his work and also giving instructions for his work. He has alleged that he was verbally retrenched w.e.f. 30.6.2019 without any prior notice, reason and opportunity of being heard. Despite the fact that he was working with honesty and helping respondents to achieve their objective, no inquiry, show cause notice, charge sheet etc. was ever issued to him thus his termination was arbitrary and deserve to be set aside. The case of respondent no.1 is however stated by RW1 Shri Anurag Sharma, Assistant Executive Engineer, Jal Shakti Sub Division Nurpur who has deposed on oath that petitioner was not serving as pump operator with the department but he was casual labourer under direct control and supervision of contractor/respondent no.2. The payments were being made by department to the contractor and the work was not under the direct control of the department. The work was awarded to contractor for a fixed time and it was responsibility of contractor to run the scheme at his risk and cost. It was prerogative of respondent no.2 to engage and disengage labour of his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operator with the department. Such recruitment is always done by the department after following codal formalities. He has denied that the petitioner was working under the control and supervision of the employees of the department. Respondent no.1 has clearly asserted that petitioner was not working under them but was serving under the direct control and supervision and was employed by respondent no.2 only hence according to respondent no.1 the petitioner has not claim against respondent no.1.

13. Respondent no.2 Shri Jagjit Rai, Authorized Representative of M/s Little Enterprises has appeared on behalf of respondent no.2 and he has denied that the services of petitioner were engaged by respondent no.2 as pump operator w.e.f. 1.3.2015 to 30.6.2019. He has completely

denied not only engagement of petitioner but also making payment to the petitioner. It is asserted that petitioner has not placed on record any proof like attendance register, payment record, ID card, ESIC membership, EPF record etc. in order to show his employment with the respondent no.2. Thus according to respondent no.2 there was no relationship of master and servant between respondent no.2 and petitioner. The claim of the petitioner including the allegations of termination and regarding violation of the Industrial Disputes Act has been denied by respondent no.2.

14. Petitioner in his cross-examination by learned Dy. D.A. for respondent no.1 has admitted that the department used to make payment to respondent no.2 who further made payment to the petitioner. He has admitted that there was no advertisement issued by the department for the post of pump operator neither any application form has been filled. He has shown his ignorance to the suggestion that the department had awarded a tender to respondent no.2 for a limited period of time. According to him he was not sent by respondent no.2 to do the awarded work. He has also denied that his documents were deposited with the respondent no.2. He has stated that all the documents were given by him to the department however no oral or documentary evidence in this regard could be produced by him. He has admitted that he has not produced any record pertaining to the salary neither the bank statement. He has denied that these documents have been deliberately not produced before this court as the payments to him were being made by respondent no.2. Respondent no.1 has not completely denied that petitioner was working with respondent no.2 but they have asserted that the petitioner was working after being engaged by respondent no.2 without direct control and supervision of respondent no.1. Contrary to this respondent no.2 completely denied that petitioner had ever worked with them in any capacity or any payments were made to petitioner at any interval. RW2 has admitted in his cross-examination that he was issued a tender by respondent no.1 for manpower supply and repairs of a water scheme which according to him was being run by him. He has denied that he had employed petitioner with him and paid salary to the petitioner. He has admitted that he carried out the work as per the tender and received payments vide Ext. RW1/H through RTGS. In his cross-examination he has completely denied that the petitioner has ever worked with him as pump operator. He has also denied that he used to deduct EPF from salary of the petitioner but never deposited it. He has denied that he paid cash in salary to the petitioner and did not pay overtime and minimum wages. He has denied that I&PH Department conducted training of petitioner. He has denied that he has committed the violation of the provisions of the Industrial Disputes Act while terminating the services of the petitioner.

15. Considering the claim which has been preferred on behalf of petitioner the onus to prove the employer and employee relationship between petitioner and respondent no.1 or employer and employee relationship between petitioner and respondent no.2 was solely on the petitioner. This fact had been denied and contested by respondents no.1 and 2 hence oral and documentary evidence in this regard was to be initially led by the petitioner. The Hon'ble Supreme Court in **Workmen of Nilgiri Coop. Mkt. Society vs. State of Tamil Nadu & Ors, (2004) 3 SCC 514** has held that onus and decree of proof of employment primarily relates on the person who claims to be a workman, the relevant paragraphs of the said judgment as under:—

“47 It is a well-settled principle of law that the person who sets up a plea of existence of relationship of employer and employee, the burden would be upon him.

48. In N.C. John Vs. Secretary Thodupuzha Taluk Shop and Commercial Establishment Workers' Union and Others [1973 Lab. I.C. 398], the Kerala High Court held:

"The burden of proof being on the workmen to establish the employer- employee relationship an adverse inference cannot be drawn against the employer that if he were to produce books of accounts they would have proved employer-employee relationship."

49. In Swapan Das Gupta and Others Vs. The First Labour Court of West Bengal and Others [1975 Lab. I.C. 202] it has been held:

"Where a person asserts that he was a workmen of the Company, and it is denied by the Company, it is for him to prove the fact. It is not for the Company to prove that he was not an employee of the Company but of some other person."

50. The question whether the relationship between the parties is one of the employer and employee is a pure question of fact and ordinarily the High Court while exercising its power of judicial review shall not interfere therewith unless the finding is manifestly or obviously erroneous or perverse.

16. In the present case except the bald statement of petitioner there is no other oral and documentary evidence pointing towards the fact that petitioner has been appointed and was terminated by the order of respondent no.1 or respondent no.2. Respondent no.1 have produced on record the various tenders copy of notice inviting tenders and award letters Ext. RW1/B to Ext. RW1/F. It appears that from time to the work of pump operator was being awarded on contractual basis to different contractors. RW2 has also admitted this fact. There is no oral or documentary evidence to prove that any training was being imparted by I&PH department to the petitioner or there was direct control and supervision of the employee of I&PH over work and conduct of the petitioner on day to day basis. There is no document in the form of any attendance register, payment of salary or any other important documents to show that the petitioner was working with respondent no.1 as well as respondent no.2. Respondent 2 has denied that the petitioner at any point of time had rendered his services with respondent no.2. In absence of any cogent oral and documentary evidence it cannot be held that the petitioner had worked with respondents for the period alleged in his affidavit and claim.

17. The specific question has been to RW1 Shri Anurag Sharma regarding obtaining of licence from licensing authority i.e. Labour Officer-cum-License registering officer Dharamshala to engage the contractor and deploy the contract labour. He has admitted that no such license has been obtained from the licensing authority. It is held by the Hon'ble Supreme Court in **Dena Nath and Ors vs. National Fertilizers Ltd. and Ors, AIR 1992 SC 457** as follows:—

"...The only consequences provided in the Act where either the principal employer or the labour contractor violates the provision of Sections 9 and 12 respectively is the penal provision, as envisaged under the Act for which reference may be made to Sections 23 and 25 of the Act. We are thus of the firm view that in proceedings under Article 226 of the Constitution merely because contractor or the employer had violated any provision of the Act or the rules, the Court could not issue any mandamus for deeming the contract labour as having become the employees of the principal employer. We would not like to express any view on the decision of the Karnataka High Court or of the Gujarat High Court (supra) since these decisions are under challenge in this court, but we would place on record that we do not agree with the aforequoted observations of the Madras High Court about the effect of non-registration of the principal employer or the non-licensing of the labour contractor nor with the view of Bombay High Court in the aforesaid case. We are of the view that the decisions of the Kerala High Court and Delhi High Court are correct and we approve the same".

18. Merely the fact that respondent no.1 was not able to produce the requisite licence under the act of governing employment of contract labour would not itself established the case of the petitioner. There is nothing on record except the statement of petitioner to prove that petitioner was employed either by respondent no.1 or by respondent no.2. There is no evidence to show that

the respondent no.1 had direct control and supervision over the work of petitioner. Record of payment has also not been produced before this court. In these circumstances the claim of the petitioner against the respondents is not established from the oral as well as documentary evidence produced before this court and in these circumstances it cannot be held that petitioner's services were retrenched by the respondents. The claim petition is not maintainable. Hence issues no.1 and 3 are decided in the favour of the respondents.

ISSUE NO.2

19. The claim raised by the petitioner was upon the proof of employer and employee relationship, between the petitioner and the respondents. There are no evidence produced by the petitioner in order to substantiate the claim made by him in the claim petition and the facts deposed by way of affidavit. Hence not benefits as prayed for can be granted in his favour. This issue is decided accordingly.

ISSUE NO.4

20. The onus to prove the fact was on respondents. No oral or documentary evidence suggests that any material facts were suppressed hence this issue is decided accordingly.

RELIEF

21. In view of my findings on the issues no. 1, 2, 3 and 4 above the claim petition filed on behalf of the petitioner is not maintainable and the same is dismissed. Parties are left to bear their costs.

22. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT- CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 43/2022
Date of Institution : 05-3-2022
Date of Decision : 28-06-2025

Shri Rajesh Kumar s/o Late Shri Karnail, r/o Village Kandwal, P.O. Kandwal, Tehsil Nurpur, District Kangra, H.P. ..Petitioner.

Versus

1. The Executive Engineer, I&Ph Division, Nurpur, District Kangra, H.P. (Principal Employer)
2. Shri Ashok Kumar, Proprietor, M/S Little Enterprises, Vpo Bhadwar, Tehsil Nurpur, District Kangra, H.P. (Contractor)Respondents.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner	:	Sh. Rohit Kumar, Ld. Adv.
For the Respondent No.1	:	Sh. B.C. Katoch, Ld. Dy. D.A.
For Respondent No.2	:	Sh. Vijay Kaundal, Ld. Adv.

AWARD

The following reference has been received by this court for adjudication from the appropriate Government/Joint Labour Commissioner:—

“Whether the termination of services of Shri Rajesh Kumar s/o Late Shri Karnail, r/o Village Kandwal, P.O. Kandwal, Tehsil Nurpur, District Kangra, H.P. by (i) the Executive Engineer, I&PH Division Nurpur, District Kangra, H.P. (Principal Employer) (ii) Shri Ashok Kumar, Proprietor, M/S Little Enterprises, V.P.O. Bhadwar, Tehsil Nurpur, District Kangra, H.P. (Contractor) during June, 2017 (as alleged by workman), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. The brief facts as stated in the claim petition are that the petitioner was appointed as Pump Operator by the respondent concern on 12.7.2016 and drawing salary of Rs.4000/- per month and had continued till his termination/retrenchment. It is asserted that petitioner had served with respondent concern till 28.6.2018 for more than one year and had completed more than 240 days in each calendar year in accordance with Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had worked indigenously with full honesty with the respondent concern till 28.6.2017. It is asserted that petitioner had worked for more than 10 hours a day with the respondent and was not paid overtime charges as per the provisions of law. The services of the petitioner were verbally retrenched/terminated w.e.f. 28.6.2018 without given any prior notice, reason and opportunity of being heard as well as without following the procedure in accordance with the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947. It is alleged that junior and similar situated persons to the petitioner are still working with the respondent concern however the services of the petitioner were dispensed with by the respondent which was arbitrary without any reason, notice and without holding any inquiry and without affording an opportunity of being heard. On 28.6.2018 when the petitioner went for duty as usual he was denied to enter the gate of respondent concern and was verbally told that his services had been retrenched. Thereafter, the petitioner had visited the respondent for several days to seek reason of his termination and requested the authority to take him back in job. The respondent neither addressed the grievance of petitioner nor reinstated his services however petitioner had sent demand notice to the respondent as per provisions of the Industrial Disputes Act, 1947. Thereafter proceedings were initiated before the Conciliation Officer and after two hearings the matter was not proceeded. The petitioner had sent a representation to the Labour Commissioner with regard to his

grievance. He was called for conciliation but no solution was reached and the grievance of the petitioner remained as such till date. It is alleged that the termination of the petitioner was without any logical and fair reason and without following the provisions of the Industrial Disputes Act, 1947. It is asserted that during pendency of conciliation proceedings respondents betrayed the trust of petitioner/workman which directly amounts to contravention of Section 33 of the Industrial Disputes Act. It is alleged that dismissal of the services of the petitioner was in violation of Section 25 of the Industrial Disputes Act and was illegal, unjust, unconstitutional and void ab-initio and same sought to be quashed and declared null and void. It is therefore prayed that petitioner may be reinstated with all consequential benefits, seniority, back wages and be treated as per his original appointment with all consequential relief.

3. In reply on behalf of respondent no.1 preliminary submissions qua maintainability and suppression of material facts have been raised. On merit, it is asserted that the work was awarded to the contractor for a particular time and it was the responsibility of the contractor to run the scheme at his risk and cost. It is asserted that it was the prerogative of respondent no.2 to engaged and disengage labour at his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operators as the recruitment for the post of pump operator was to be done by the department only after following codal formalities. It is denied that his post and nature of work was permanent and under direct control and supervision of respondent no.1. It is further denied that the training was given to petitioner through employees of the department and the department had monitored the work of petitioner. It is denied that respondent no.1 had condemned the petitioner unheard and violated the principles of natural justice. It is denied that the petitioner was appointed as pump operator by respondent no.1 on 12.7.2016 and was drawing salary of Rs.4000/- per month. In-fact the work was awarded to contractor to run and maintenance of scheme for particular time for which necessary payment was released to the contractor from time to time. It is denied that petitioner had served with respondent department till 28.6.2018 and completed more than 240 days in any of the years. It is asserted that the petitioner had worked under the direct control of contractor. It is denied that the petitioner had worked with full honesty till 28.6.2018. It is asserted that the petitioner had mentioned in the petition two different dates viz. 28.6.2018 and 28.6.2017. It is denied that the petitioner had worked for more than 10 hours daily and was not paid over time charges. It is asserted that the work was awarded to the contractor for particular time. It is further denied that the petitioner was verbally retrenched or terminated by the department w.e.f. 28.6.2018. It is asserted that the petitioner was engaged by the contractor for a particular time period directly under the supervision and control of contractor and as such question of issuing any show cause notice to petitioner does not arise. It is asserted that the respondent department had not violated any provisions of the Industrial Disputes Act. All other parawise averments made in the petition are denied and it is prayed that the petition may be dismissed.

4. In reply on behalf of respondent no.2 preliminary submissions qua maintainability, locus standi, suppression of material facts have been raised. On merits, it is asserted that from the contents of para no.2 of the claim petition of the petitioner it was not clear under which respondent the petitioner had worked in the capacity of pump operator but respondent no.2 has never appointed the petitioner w.e.f. 12.7.2016 @ 4000/- per month till the date of his alleged termination. It is specifically denied that petitioner had never worked with respondent no.2 till 28.6.2018 and that he served more than one year and had completed 240 days as per Section 25-B of the Industrial Disputes Act, 1947. It is asserted that the petitioner had not worked for more than 10 hours a day and was not paid overtime charges as per provision of law. It is denied that the petitioner was never terminated by respondent no.2 w.e.f. 28.6.2018 and as such question of giving him prior notice does not arise at all as well as no violation of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 had been committed by respondent no.2. It is asserted that petitioner had not worked with replying respondent and question of retaining junior persons does not arise at all as the

petitioner has failed to disclose the name of his junior in the petition. Though respondent no.2 had not terminated the services of petitioner and as such question of holding inquiry, issuing of charge sheet does not arise at all. It is asserted that respondent no.2 had never told to petitioner to not to report for duties on 28.6.2018 as the respondent no.2 had never installed any pump house in his establishment. It is asserted that the respondent no.2 had not terminated the services of petitioner as well as not violated Sections 25-F, 25-H and 33 of the Industrial Disputes Act. It is denied that during conciliation proceedings respondent no.2 had given assurance to petitioner with regard to his re-engagement. It is denied that the respondent no.2 had employed any helper. Other averments made in the petition were denied and it is prayed that the claim of the petitioner deserves to be dismissed.

5. No rejoinder was filed on behalf of petitioner.

6. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the services of the petitioner were illegally terminated by the respondents during June, 2017 as alleged? ..*OPP.*
2. If issue No.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, compensation and past service benefits as claimed? ..*OPR.*
3. Whether the petition is not maintainable, as alleged? ..*OPR.*
4. Whether the petitioner has suppressed the material facts and has not come to the Court with clean hands, as alleged? ..*OPR.*

RELIEF

7. The petitioner in order to prove his case examined himself by way of affidavit Ext. PW1/A wherein he reiterated the facts alleged in the claim petition.

8. Respondent no.1 examined Er. Anurag Sharma, Executive Engineer, Jal Shakti Sub Division Jassur by way of affidavit Ex. RW1/A wherein he reiterated the facts alleged in the reply. He also produced on record copies of inviting tenders and award letters Ext. RW1/B to Ext. RW1/F and payments made to contractor Ext. RW1/G. Respondent no.2 has examined Shri Jagjit Rai, Authorized Representative, M/s Little Enterprises by way of affidavit Ext. RW2/A wherein he reiterated the facts alleged in the reply.

9. I have heard the learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent no.1 and learned counsel for respondent no.2 at length and records perused.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1	:	No
Issue No. 2	:	Decided accordingly
Issue No. 3	:	Yes
Issue No. 4	:	No

Relief : Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES NO.1 AND 3

11. All the above mentioned issues shall be taken up together for the purpose of adjudication.

12. The petitioner has stated on oath that he was appointed as pump operator and was serving with contractor Shri Ashok Kumar, Proprietor M/s Little Enterprises, VPO Bhadwar, Tehsil Nurpur, District Kangra. He was appointed on 12.7.2016 and was drawing salary of Rs.4000/- basic per month till the date of his alleged retrenchment. He has also stated that he continued to work with respondents till 30.6.2019 and completed 240 days of service in each calendar year. He has also mentioned that his nature of work was permanent and technical. He had worked under the direct control and supervision of respondent no.1. He was also provided time to time training by respondent no.1 and was working under the direct control of I&PH department through Junior Engineer who was monitoring his work and also giving instructions for his work. He has alleged that he was verbally retrenched w.e.f. 28.6.2018 without any prior notice, reason and opportunity of being heard. Despite the fact that he was working with honesty and helping respondents to achieve their objective, no inquiry, show cause notice, charge sheet etc. was ever issued to him thus his termination was arbitrary and deserve to be set aside. The case of respondent no.1 is however stated by RW1 Shri Anurag Sharma, Assistant Executive Engineer, Jal Shakti Sub Division Nurpur who has deposed on oath that petitioner was not serving as pump operator with the department but he was casual labourer under direct control and supervision of contractor/respondent no.2. The payments were being made by department to the contractor and the work was not under the direct control of the department. The work was awarded to contractor for a fixed time and it was responsibility of contractor to run the scheme at his risk and cost. It was prerogative of respondent no.2 to engage and disengage labour of his own choice and department had nothing to do with it. When the work was awarded to respondent no.2 there was no sanctioned post of pump operator with the department. Such recruitment is always done by the department after following codal formalities. He has denied that the petitioner was working under the control and supervision of the employees of the department. Respondent no.1 has clearly asserted that petitioner was not working under them but was serving under the direct control and supervision and was employed by respondent no.2 only hence according to respondent no.1 the petitioner has not claim against respondent no.1.

13. Respondent no.2 Shri Jagjit Rai, Authorized Representative of M/s Little Enterprises has appeared on behalf of respondent no.2 and he has denied that the services of petitioner were engaged by respondent no.2 as pump operator w.e.f. 12.7.2016 to 28.6.2018. He has completely denied not only engagement of petitioner but also making payment to the petitioner. It is asserted that petitioner has not placed on record any proof like attendance register, payment record, ID card, ESIC membership, EPF record etc. in order to show his employment with the respondent no.2. Thus according to respondent no.2 there was no relationship of master and servant between respondent no.2 and petitioner. The claim of the petitioner including the allegations of termination and regarding violation of the Industrial Disputes Act has been denied by respondent no.2.

14. Petitioner in his cross-examination by learned Dy. D.A. for respondent no.1 has admitted that the department used to make payment to respondent no.2 who further made payment to the petitioner. He has admitted that there was no advertisement issued by the department for the post of pump operator neither any application form has been filled. He has shown his ignorance to the suggestion that the department had awarded a tender to respondent no.2 for a limited period of

time. According to him he was not sent by respondent no.2 to do the awarded work. He has also denied that his documents were deposited with the respondent no.2. He has stated that all the documents were given by him to the department however no oral or documentary evidence in this regard could be produced by him. He has admitted that he has not produced any record pertaining to the salary neither the bank statement. He has denied that these documents have been deliberately not produced before this court as the payments to him were being made by respondent no.2. Respondent no.1 has not completely denied that petitioner was working with respondent no.2 but they have asserted that the petitioner was working after being engaged by respondent no.2 without direct control and supervision of respondent no.1. Contrary to this respondent no.2 completely denied that petitioner had ever worked with them in any capacity or any payments were made to petitioner at any interval. RW2 has admitted in his cross-examination that he was issued a tender by respondent no.1 for manpower supply and repairs of a water scheme which according to him was being run by him. He has denied that he had employed petitioner with him and paid salary to the petitioner. He has admitted that he carried out the work as per the tender and received payments vide Ext. RW1/G through RTGS. In his cross-examination he has completely denied that the petitioner has ever worked with him as pump operator. He has also denied that he used to deduct EPF from salary of the petitioner but never deposited it. He has denied that he paid cash in salary to the petitioner and did not pay overtime and minimum wages. He has denied that I&PH Department conducted training of petitioner. He has denied that he has committed the violation of the provisions of the Industrial Disputes Act while terminating the services of the petitioner.

15. Considering the claim which has been preferred on behalf of petitioner the onus to prove the employer and employee relationship between petitioner and respondent no.1 or employer and employee relationship between petitioner and respondent no.2 was solely on the petitioner. This fact had been denied and contested by respondents no.1 and 2 hence oral and documentary evidence in this regard was to be initially led by the petitioner. The Hon'ble Supreme Court in **Workmen of Nilgiri Coop. Mkt. Society vs. State of Tamil Nadu & Ors, (2004) 3 SCC 514** has held that onus and decree of proof of employment primarily relates on the person who claims to be a workman, the relevant paragraphs of the said judgment as under:—

“47 It is a well-settled principle of law that the person who sets up a plea of existence of relationship of employer and employee, the burden would be upon him.

48. In N.C. John Vs. Secretary Thodupuzha Taluk Shop and Commercial Establishment Workers' Union and Others [1973 Lab. I.C. 398], the Kerala High Court held:

"The burden of proof being on the workmen to establish the employer- employee relationship an adverse inference cannot be drawn against the employer that if he were to produce books of accounts they would have proved employer-employee relationship."

49. In Swapan das Gupta and Others Vs. The First Labour Court of West Bengal and Others [1975 Lab. I.C. 202] it has been held:

"Where a person asserts that he was a workmen of the Company, and it is denied by the Company, it is for him to prove the fact. It is not for the Company to prove that he was not an employee of the Company but of some other person."

50. The question whether the relationship between the parties is one of the employer and employee is a pure question of fact and ordinarily the High Court while exercising its power of judicial review shall not interfere therewith unless the finding is manifestly or obviously erroneous or perverse.

16. In the present case except the bald statement of petitioner there is no other oral and documentary evidence pointing towards the fact that petitioner has been appointed and was terminated by the order of respondent no.1 or respondent no.2. Respondent no.1 have produced on record the various tenders copy of notice inviting tenders and award letters Ext. RW1/B to Ext. RW1/F. It appears that from time to the work of pump operator was being awarded on contractual basis to different contractors. RW2 has also admitted this fact. There is no oral or documentary evidence to prove that any training was being imparted by I&PH department to the petitioner or there was direct control and supervision of the employee of I&PH over work and conduct of the petitioner on day to day basis. There is no document in the form of any attendance register, payment of salary or any other important documents to show that the petitioner was working with respondent no.1 as well as respondent no.2. Respondent 2 has denied that the petitioner at any point of time had rendered his services with respondent no.2. In absence of any cogent oral and documentary evidence it cannot be held that the petitioner had worked with respondents for the period alleged in his affidavit and claim.

17. The specific question has been to RW1 Shri Anurag Sharma regarding obtaining of licence from licensing authority i.e. Labour Officer-cum-License registering officer Dharamshala to engage the contractor and deploy the contract labour. He has admitted that no such license has been obtained from the licensing authority. It is held by the Hon'ble Supreme Court in **Dena Nath and Ors vs. National Fertilizers Ltd. and Ors, AIR 1992 SC 457** as follows:—

“...The only consequences provided in the Act where either the principal employer or the labour contractor violates the provision of Sections 9 and 12 respectively is the penal provision, as envisaged under the Act for which reference may be made to Sections 23 and 25 of the Act. We are thus of the firm view that in proceedings under Article 226 of the Constitution merely because contractor or the employer had violated any provision of the Act or the rules, the Court could not issue any mandamus for deeming the contract labour as having become the employees of the principal employer. We would not like to express any view on the decision of the Karnataka High Court or of the Gujarat High Court (supra) since these decisions are under challenge in this court, but we would place on record that we do not agree with the aforequoted observations of the Madras High Court about the effect of non-registration of the principal employer or the non-licensing of the labour contractor nor with the view of Bombay High Court in the aforesaid case. We are of the view that the decisions of the Kerala High Court and Delhi High Court are correct and we approve the same”.

18. Merely the fact that respondent no.1 was not able to produce the requisite licence under the act of governing employment of contract labour would not itself established the case of the petitioner. There is nothing on record except the statement of petitioner to prove that petitioner was employed either by respondent no.1 or by respondent no.2. There is no evidence to show that the respondent no.1 had direct control and supervision over the work of petitioner. Record of payment has also not been produced before this court. In these circumstances the claim of the petitioner against the respondents is not established from the oral as well as documentary evidence produced before this court and in these circumstances it cannot be held that petitioner's services were retrenched by the respondents. The claim petition is not maintainable. Hence issues no.1 and 3 are decided in the favour of the respondents.

ISSUE NO.2

19. The claim raised by the petitioner was upon the proof of employer and employee relationship, between the petitioner and the respondents. There are no evidence produced by the petitioner in order to substantiate the claim made by him in the claim petition and the facts deposed

by way of affidavit. Hence not benefits as prayed for can be granted in his favour. This issue is decided accordingly.

ISSUE NO.4

20. The onus to prove the fact was on respondents. No oral or documentary evidence suggests that any material facts were suppressed hence this issue is decided accordingly.

RELIEF

21. In view of my findings on the issues no. 1, 2, 3 and 4 above the claim petition filed on behalf of the petitioner is not maintainable and the same is dismissed. Parties are left to bear their costs.

22. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 114/2017(RBT No.70/2019)
Date of Institution : 18-2-2017
Date of Decision : 16-06-2025

The President/General Secretary, Kamla Dial Workers Union (Reg. No.322), Parwanoo, District Solan, H.P.-173220 ..*Petitioners.*

Versus

1. The Managing Director, M/s KDDL Ltd. Village Dhana (Bagbania), P.O. Manpura, Tehsil Baddi, District Solan, H.P.

2. The Managing Director, M/s KDDL Ltd., TTPA, Sector-3, Parwanoo, District Solan, H.P. ..*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person

For the Respondent no.1 : Sh. Vijay Kaundal, Ld. Adv

For the Respondent No.2 : Sh. Rahul Mahajan, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Joint Labour Commissioner.

“Whether demands raised by the President & General Secretary, Kamla Dials Workers Union (Regd. No. 322) Parwanoo, Distt. Solan, H.P. vide demand notice dated nil- (**Copy enclosed**) before the Managing Director, M/s KDDL Ltd. Village Dhana (Bagbania), P.O. Manpura, Tehsil Baddi, Distt. Solan, H.P. & The Managing Director, M/s KDDL Ltd., TTPA, Sector-3 Parwanoo, Distt. Solan, H.P. for fulfilling, are legal and justified? If yes, what relief in terms of above demand notice the concerned workmen are entitled to from the above management?”

2. Joint application under Section 151 CPC and under the provisions of Industrial Disputes Act, 1947 have been moved on behalf of Kamla Dial Workers Union (Regd. No.322) Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, H.P. to place on record settlements dated 31.1.2025 registered on 7.5.2025 between Kamla Dial Workers Union (Regd. No.322), Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, District Solan, H.P. It is prayed that order in terms of application may be passed in accordance with the settlement already arrived between the parties. It is also submitted in the application that the said settlements have got registered with Labour-cum-Conciliation Officer, Solan, Zone Solan, H.P. on 7.5.2025 and it is prayed that in terms of said settlements issues which were referred by Government to this Tribunal stand settled in totality. Thus no dispute remained alive between Kamla Dial Workers Union and KDDL Limited. It is prayed that in the interest of justice settlements may be taken on record and further award as per terms and conditions of settlements may be passed.

4. I have heard the Authorized Representatives of petitioner as well as learned Counsel for the respondent at length.

5. The parties have produced on record settlements already arrived between them and prayed that appropriate order may be passed in terms of settlements. In view of the joint application as well settlements which are annexed with it, a compromise in accordance with law can be legally executed between the parties, hence the application is allowed in the interest of justice. Settlements be taken record. The application be tagged with the main case after its registration.

6. Statement of Sh. Vijay Kumar, President Kamla Dial Worker Union Parwanoo, Regd. No.322 has been recorded. He deposed that union has entered into settlements dated 31.1.2025 with M/s KDDL Limited Parwanoo, District Solan, Himachal Pradesh. The settlements are exhibited as Ext. PX1 and Ext. PX2. He has prayed that in terms of settlements of disputes between union/workmen and management in respect of present reference stand settled. He also submitted that union/workmen has no claim against management in the present reference. He has further submitted that Award be passed in terms of the settlements. Separate statement of Shri Raj Singh, Authorized Signatory, M/s KDDL Limited has been recorded. He has produced on record the Board Resolution Ext. RX1. He has also mentioned that union and management have entered into settlements Ext. PX1 and Ext. PX2. He has prayed that the dispute in the present case have been settled in terms of above settlements and award may be passed in terms of above settlement.

7. I have heard the parties as well as representative of the parties at length.

8. The settlements Ext. PX1 and Ext. PX2 can be legally executed between the parties and in terms of above settlements the dispute between the parties have been finally settled. In accordance with prayer made in the statements of parties the award is passed in terms of Ext. PX1 and Ext.PX2. The settlements mentioned above shall form part of the award.

9. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

**IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-
CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)**

Reference No.	:	36/2016(RBT No.67/19)
Date of Institution	:	19-5-2016
Date of Decision	:	16-06-2025

The President and General Secretary, Kamla Dials Workers Union (Regd. No.322)
Parwanoo, District Solan, H.P. ..Petitioners.

Versus

1. The Managing Director, M/s KDDL Ltd., Regd. Office, Sector-3, Plot No.-3, Parwanoo, District Solan, H.P.

2. The Factory Manager, M/s KDDL Ltd., Sector-2, Plot No.2, Windsmoor Complex, Parwanoo, District Solan, H.P.

3. The Factory Manager, M/s Himachal Fine Blanks Ltd. Sector-5, Parwanoo, District Solan, H.P.

4. The Factory Manager, M/s KDDL Ltd. Village Dhana (Bagbania), P.O. Manpura, Tehsil Nalagarh, District Solan, H.P. ..Respondents.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner	:	Petitioner in person
For the Respondent No.1	:	Sh. Rahul Mahajan, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Joint Labour Commissioner:—

“Whether demands raised by the President and General Secretary, Kamla Dials Workers Union (Regn. No.322) Parwanoo, Distt. Solan, H.P. vide demand notice dated 22.4.2014 (**Copy enclosed**) before and to be fulfilled by 1.) The Managing Director, M/S KDDL Ltd., Regd. Office Sector-3, Plot No.-3, Parwanoo, Distt. Solan, H.P. 2.) The Factory Manager, M/s KDDL Ltd., Sector-2, Plot No.2, Windsmoor Complex, Parwanoo, Distt. Solan, H.P. 3.)The Factory Manager, M/s Himachal Fine Blanks Ltd. Sector-5, Parwanoo, Distt. Solan, H.P. 4.) The Factory Manager, M/s KDDL Ltd. Village Dhana (Bagbania), P.O. Manpura, Tehsil Nalagarh, Distt. Solan, H.P. are legal and justified? If yes, what relief in terms of demand notice dated 22.4.2014 the aggrieved workman is entitled to from the above management/employer?”

2. Joint application under Section 151 CPC and under the provisions of Industrial Disputes Act, 1947 have been moved on behalf of Kamla Dial Workers Union (Regd. No.322) Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, H.P. to place on record settlements dated 31.1.2025 registered on 7.5.2025 between Kamla Dial Workers Union (Regd. No.322), Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, District Solan, H.P. It is prayed that order in terms of application may be passed in accordance with the settlement already arrived between the parties. It is also submitted in the application that the said settlements have got registered with Labour-cum-Conciliation Officer, Solan, Zone Solan, H.P. on 7.5.2025 and it is prayed that in terms of said settlements issues which were referred by Government to this Tribunal stand settled in totality. Thus no dispute remained alive between Kamla Dial Workers Union and KDDL Limited. It is prayed that in the interest of justice settlements may be taken on record and further award as per terms and conditions of settlements may be passed.

4. I have heard the learned authorized representative as well as learned counsel for the respondents at length.

5. The parties have produced on record settlements already arrived between them and prayed that appropriate order may be passed in terms of settlements. In view of the joint application as well settlements which are annexed with it, a compromise in accordance with law can be legally executed between the parties, hence the application is allowed in the interest of justice. Settlements be taken on record. The application be tagged with the main case after its registration.

6. Statement of Sh. Vijay Kumar, President Kamla Dial Worker Union Parwanoo, Regd. No.322 has been recorded. He deposed that union has entered into settlements dated 31.1.2025 with M/s KDDL Limited Parwanoo, District Solan, Himachal Pradesh. The settlements are exhibited as Ext. PX1 and Ext. PX2 and Ext. PX3. He has prayed that in terms of settlements of disputes between union/workmen and management in respect of present reference stand settled. He also submitted that union/workmen has no claim against management in the present reference. He has further submitted that Award be passed in terms of the settlements. Separate statement of Shri Raj Singh, Authorized Signatory, M/s KDDL Limited has been recorded. He has produced on record the Board Resolution Ext. RX1. He has also mentioned that union and management have entered into settlements Ext. PX,1 Ext. PX2 and Ext. PX3. He has prayed that the dispute in the present case have been settled in terms of above settlements and award may be passed in terms of above settlement.

7. I have heard the parties as well as representative of the parties as well as learned counsel for respondents at length.

8. The settlements Ext. PX,1 Ext. PX2 and Ext. PX3 can be legally executed between the parties and in terms of above settlements the dispute between the parties have been finally settled. In accordance with prayer made in the statements of parties the award is passed in terms of Ext. PX1, Ext.PX2 and Ext. PX3 the settlements mentioned above shall form part of the award.

9. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 40/2015(RBT No.65/19)
Date of Institution : 13-8-2015
Date of Decision : 16-06-2025

Sh. Prem Lal Verma, Sh. Vijay Anand c/o M/s Kamla Dials Workers Union, Regd. No.322, Plot No.3, Sector-3, Parwanoo, District Solan, H.P. *..Petitioners.*

Versus

The Occupier/Factory Manager, M/s Kamla Dials & Devices Ltd., Plot No.3, Sector-3, Parwanoo, District Solan, H.P.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person
For the Respondent : Sh. Rahul Mahajan, Ld. Adv.

AWARD

1. The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Joint Labour Commissioner:—

“Whether demands raised vide demand notice dated 13.01.2014 (**Copy enclosed**) by Sh. Prem Lal Verma, Sh. Vijay Anand C/O M/s Kamla Dials Workers Union, Regd. No.322, Plot No.3, Sector-3, Parwanoo, Distt. Solan, H.P. of M/s Kamla Dials & Devices Ltd., Plot No.3, Sector-3, Parwanoo, Distt. Solan (H.P.) submitted before and to be fulfilled by Occupier/Factory Manager, M/s Kamla Dials & Devices Ltd. Plot No.3, Sector-3, Parwanoo, Distt. Solan, (H.P.) are legal and justified? If yes, what monetary and other service benefits the aggrieved workers are entitled to from the above management/employer?”

2. After receipt of above said reference, a corrigendum reference dated 4th November, 2015 has been received by this court for the purpose of adjudication from the appropriate authority/Joint Labour Commissioner.

“In the reference notification the words, “Sh. Prem Lal Verma, Sh. Vijay Anand C/O Kamla Dials Workers Union, Regd. No.322, Plot No.3, Sector-3, Parwanoo, Distt. Solan, H.P. **“be read as** “The President & General Secretary, Kamla Dials Workers Union, Regd. No.322, Plot No.3, Sector-3, Parwanoo, Distt. Solan, H.P.”

3. Joint application under Section 151 CPC and under the provisions of Industrial Disputes Act, 1947 have been moved on behalf of Kamla Dial Workers Union (Regd. No.322) Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, H.P. to place on record settlements dated 31.1.2025 registered on 7.5.2025 between Kamla Dial Workers Union (Regd. No.322), Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, District Solan, H.P. It is prayed that order in terms of application may be passed in accordance with the settlement already arrived between the parties. It is also submitted in the application that the said settlements have got registered with Labour-cum-Conciliation Officer, Solan, Zone Solan, H.P. on 7.5.2025 and it is prayed that in terms of said settlements issues which were referred by Government to this Tribunal stand settled in totality. Thus no dispute remained alive between Kamla Dial Workers Union and KDDL Limited. It is prayed that in the interest of justice settlements may be taken on record and further award as per terms and conditions of settlements may be passed.

4. I have heard the learned Counsel for the applicant/petitioner as well as President/General Secretary for the respondent at length.

5. The parties have produced on record settlements already arrived between them and prayed that appropriate order may be passed in terms of settlements. In view of the joint application as well settlements which are annexed with it, a compromise in accordance with law can be legally executed between the parties, hence the application is allowed in the interest of justice. Settlements be taken record. The application be tagged with the main case after its registration.

6. Statement of Sh. Vijay Kumar, President Kamla Dial Worker Union Parwanoo, Regd. No.322 has been recorded. He deposed that union has entered into settlements dated 31.1.2025 with M/s KDDL Limited Parwanoo, District Solan, Himachal Pradesh. The settlements are exhibited as Ext. PX1 and Ext. PX2. He has prayed that in terms of settlements of disputes between union/workmen and management in respect of present reference stand settled. He also submitted that union/workmen has no claim against management in the present reference. He has further submitted that Award be passed in terms of the settlements. Separate statement of Shri Raj Singh, Authorized Signatory, M/s KDDL Limited has been recorded. He has produced on record the Board Resolution Ext. RX1. He has also mentioned that union and management have entered into settlements Ext. PX1 and Ext. PX2. He has prayed that the dispute in the present case have been settled in terms of above settlements and award may be passed in terms of above settlement.

7. I have heard the parties as well as representative of the parties at length.

8. The settlements Ext. PX1 and Ext. PX2 can be legally executed between the parties and in terms of above settlements the dispute between the parties have been finally settled. In accordance with prayer made in the statements of parties the award is passed in terms of Ext. PX1 and Ext. PX2. the settlements mentioned above shall form part of the award.

9. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 02/2015(RBT No.71/2019)
Date of Institution : 5-1-2015
Date of Decision : 16-06-2025

Kamla Dial Karamchari Group C/o Sh. Mangal Ram, KDDL Ltd. Village Dhana Bagbania, P.O. Manpura, Tehsil Baddi, District Solan, H.P. *..Petitioners.*

Versus

1. Employer, M/s KDDL Ltd. Village Dhana Bagbania, P.O. Manpura, Tehsil Baddi, District Solan, H.P.

2. The Unit Head, M/s KDDL Ltd. Village Dhana Bagbania, P.O. Manpura, Tehsil Baddi, District Solan, H.P. *....Respondents*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person
For the Respondent(s) : Sh. Rahul Mahajan, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Joint Labour Commissioner.

“Whether miscellaneous demands raised by Kamla Dial Karamchari Group C/o Mangal Ram, KDDL Ltd. Vill. Dhana Bagbania, P.O. Manpura, Tehsil Baddi, Distt. Solan, H.P. vide demand notice dated 18.11.2013 (**Copy enclosed**) to be full-filled by the management of M/S KDDL Ltd. Village, Dhana Bagbania, P.O. Manpura, Tehsil Baddi, Distt. Solan, H.P. are legal and justified? If yes, what relief and service benefits the aggrieved workers are entitled to?”

2. Joint application under Section 151 CPC and under the provisions of Industrial Disputes Act, 1947 have been moved on behalf of Kamla Dial Karamchari Group through its representative Mr. Mangal Ram and KDDL Ltd. Village Dhana (Bagbania), P.O. Manpura, District Solan, H.P. and KDDL Limited, Village Dhana (Bagbania), P.O. Manpura, District Solan, H.P. to place on record settlements dated 31.1.2025 registered on 15.3.2025 between Kamla Dial Karamchari Group through its representative Mr. Mangal Ram and KDDL Ltd. Village Dhana (Bagbania), P.O. Manpura, District Solan, H.P. and KDDL Limited, Village Dhana (Bagbania), P.O. Manpura, District Solan, H.P. It is prayed that order in terms of application may be passed in accordance with the settlement already arrived between the parties. It is also submitted in the application that the said settlements have got registered with Labour-cum-Conciliation Officer, Baddi, District Solan, H.P. on 15.3.2025 and it is prayed that in terms of said settlements issues which were referred by Government to this Tribunal stand settled in totality. Thus no dispute remained alive between Kamla Dial Karamchari Group through its representative Mr. Mangal Ram and KDDL Ltd. Village Dhana (Bagbania), P.O. Manpura, District Solan, H.P. and KDDL Limited, Village Dhana (Bagbania), P.O. Manpura, District Solan, H.P. It is prayed that in the interest of justice settlements may be taken on record and further award as per terms and conditions of settlements may be passed.

3. I have heard the Authorized Representatives of petitioner as well as learned Counsel for the respondent at length.

4. The parties have produced on record settlements already arrived between them and prayed that appropriate order may be passed in terms of settlements. In view of the joint application as well settlements which are annexed with it, a compromise in accordance with law can be legally executed between the parties, hence the application is allowed in the interest of justice. Settlements be taken on record. The application be tagged with the main case after its registration.

5. Statement of Sh. Mangal Ram, representative of Kamla Dial Karamchari Group Village Dhana (Bagbania) has been recorded. He deposed that five workmen have entered into settlements dated 31.1.2025 with M/s KDDL Limited Village Dhana (Bagbania). The settlements are exhibited as Ext. PX1 to Ext. PX5. He has prayed that in terms of settlements of disputes between Karamchari Group and management in respect of present reference stand settled. He also submitted that union/workmen has no claim against management in the present reference. He has further submitted that Award be passed in terms of the settlements. Separate statement of Shri Raj Singh, Authorized Signatory, M/s KDDL Limited, Dhana (Bagbania), District Solan, H.P. has been recorded. He has produced on record the Board Resolution Ext. RX1. He has also mentioned that Karamchari Group/workmen and management have entered into settlements Ext. PX1 to Ext. PX5. He has prayed that the dispute in the present case have been settled in terms of above settlements and award may be passed in terms of above settlement.

6. I have heard the parties as well as representative of the parties at length.

7. The settlements Ext. PX1 to Ext. PX5 can be legally executed between the parties and in terms of above settlements the dispute between the parties have been finally settled. In accordance with prayer made in the statements of parties the award is passed in terms of Ext. PX1 to Ext. PX5. The settlements mentioned above shall form part of the award.

8. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 40/2013(RBT No.68/2019)
Date of Institution : 10-7-2013
Date of Decision : 16-06-2025

The President/General Secretary, Kamla Dial Workers Union (Reg. No.322), Affiliated to CITU, Sector-3, Parwanoo, District Solan, H.P. *..Petitioners.*

Versus

The Unit Head, M/s Kamla Dials and Devices Limited, Sector-3, Parwanoo, District Solan, H.P. *..Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person
For the Respondent : Sh. Rahul Mahajan, Ld. Adv.

AWARD

1. The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Labour Commissioner:—

“Whether miscellaneous demands raised vide demand notices dated 6-7-2011, 12.7.2011, 1-8-2011 (copy enclosed) by The President and General Secretary, Kamla Dials Workers Union (Regn. No.322), Aff. CITU, Sector-3, Parwanoo, District Solan, H.P. to be fulfilled by The Unit Head, M/S Kamla Dials and Devices Limited, Sector-3, Parwanoo, District Solan, H.P. are legal, justified and maintainable? If yes, what relief and benefits the above workers are entitled to from the above Management/Occupier?”

2. Joint application under Section 151 CPC and under the provisions of Industrial Disputes Act, 1947 have been moved on behalf of Kamla Dial Workers Union (Regd. No.322) Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, H.P. to place on record settlements dated 31.1.2025 registered on 7.5.2025 between Kamla Dial Workers Union (Regd. No.322), Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, District Solan, H.P. It is prayed that order in terms of application may be passed in accordance with the settlement already arrived between the parties. It is also submitted in the application that the said settlements have got registered with Labour-cum-Conciliation Officer, Solan, Zone Solan, H.P. on 7.5.2025 and it is prayed that in terms of said settlements issues which were referred by Government to this Tribunal stand settled in totality. Thus no dispute remained alive between Kamla Dial Workers Union and KDDL Limited. It is prayed that in the interest of justice settlements may be taken on record and further award as per terms and conditions of settlements may be passed.

4. I have heard the Authorized Representatives of petitioner as well as learned Counsel for the respondent at length.

5. The parties have produced on record settlements already arrived between them and prayed that appropriate order may be passed in terms of settlements. In view of the joint application as well settlements which are annexed with it, a compromise in accordance with law can be legally executed between the parties, hence the application is allowed in the interest of justice. Settlements be taken record. The application be tagged with the main case after its registration.

6. Statement of Sh. Vijay Kumar, President Kamla Dial Worker Union Parwanoo, Regd. No.322 has been recorded. He deposed that union has entered into settlements dated 31.1.2025 with M/s KDDL Limited Parwanoo, District Solan, Himachal Pradesh. The settlements are exhibited as Ext. PX1 and Ext. PX2. He has prayed that in terms of settlements of disputes between union/workmen and management in respect of present reference stand settled. He also submitted that union/workmen has no claim against management in the present reference. He has further submitted that Award be passed in terms of the settlements. Separate statement of Shri Raj Singh, Authorized Signatory, M/s KDDL Limited has been recorded. He has produced on record the Board Resolution Ext. RX1. He has also mentioned that union and management have entered into settlements Ext. PX1 and Ext. PX2. He has prayed that the dispute in the present case have been settled in terms of above settlements and award may be passed in terms of above settlement.

7. I have heard the parties as well as representative of the parties at length.

8. The settlements Ext. PX1 and Ext. PX2 can be legally executed between the parties and in terms of above settlements the dispute between the parties have been finally settled. In accordance with prayer made in the statements of parties the award is passed in terms of Ext. PX1 and Ext.PX2. The settlements mentioned above shall form part of the award.

9. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 121/2010(RBT No.69/2019)
 Date of Institution : 27-10-2010
 Date of Decision : 16-06-2025

The President/General Secretary, Kamla Dial Workers Union (Reg. No.322), Affiliated to CITU, Parwanoo, District Solan, H.P.-173220 ..*Petitioners.*

Versus

The Unit Head & Factory Manager, M/s Kamla Dials & Devices Ltd., (KDDL Ltd.) Plot No.3, Sector-III, Parwanoo, District Solan, H.P. ..*Respondent*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person
 For the Respondent : Sh. Rahul Mahajan, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Labour Commissioner:—

- “1. Whether demands raised by the President and General Secretary, Kamla Dials Workers Union (Regn. No.322), Affiliated to CITU, Parwanoo, Distt. Solan, H.P.-173220 vide demand notice dated 21.10.2009 (**Copy enclosed**) before The Unit Head & Factory Manager, Kamla Dials and Devices Ltd. (KDDL Ltd.) Plot No.3, Sector-III, Parwanoo, District Solan, H.P. are legal and justified? If yes, to what service benefits the workmen of the factory are entitled to from the concerned management as per demand notice dated 21.10.2009? If not, what are its legal effects?”
2. Whether the management of Kamla Dials and Devices Ltd. (KDDL Ltd.) Plot No.3, Sector-III, Parwanoo, District Solan, H.P. has withdrawn any benefits of workmen as per settlement dated 26.5.2007 and violated terms of the settlement, if any as alleged therein the notice dated 07.11.2009 (Copy Enclosed) sent by the President /General Secretary, Kamla Dials Workers Union (Regn. No.322), Affiliated to CITU, Parwanoo, Distt. Solan, H.P.-173220? If so, to what service benefits & relief the workmen of the factory are entitled to? If not, what are its legal effects?”
3. Joint application under Section 151 CPC and under the provisions of Industrial Disputes Act, 1947 have been moved on behalf of Kamla Dial Workers Union (Regd. No.322) Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, H.P. to place on record settlements dated 31.1.2025 registered on 7.5.2025 between Kamla Dial Workers Union (Regd. No.322), Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, District Solan, H.P. It is prayed that order in terms of application may be passed in accordance with the settlement already arrived between the parties. It is also submitted in the application that the said settlements have got registered with Labour-cum-Conciliation Officer, Solan, Zone Solan, H.P. on 7.5.2025 and it is

prayed that in terms of said settlements issues which were referred by Government to this Tribunal stand settled in totality. Thus no dispute remained alive between Kamla Dial Workers Union and KDDL Limited. It is prayed that in the interest of justice settlements may be taken on record and further award as per terms and conditions of settlements may be passed.

4. I have heard the Authorized Representatives of petitioner as well as learned Counsel for the respondent at length.

5. The parties have produced on record settlements already arrived between them and prayed that appropriate order may be passed in terms of settlements. In view of the joint application as well settlements which are annexed with it, a compromise in accordance with law can be legally executed between the parties, hence the application is allowed in the interest of justice. Settlements be taken record. The application be tagged with the main case after its registration.

6. Statement of Sh. Vijay Kumar, President Kamla Dial Worker Union Parwanoo, Regd. No.322 has been recorded. He deposed that union has entered into settlements dated 31.1.2025 with M/s KDDL Limited Parwanoo, District Solan, Himachal Pradesh. The settlements are exhibited as Ext. PX1 and Ext. PX2. He has prayed that in terms of settlements of disputes between union/workmen and management in respect of present reference stand settled. He also submitted that union/workmen has no claim against management in the present reference. He has further submitted that Award be passed in terms of the settlements. Separate statement of Shri Raj Singh, Authorized Signatory, M/s KDDL Limited has been recorded. He has produced on record the Board Resolution Ext. RX1. He has also mentioned that union and management have entered into settlements Ext. PX1 and Ext. PX2. He has prayed that the dispute in the present case have been settled in terms of above settlements and award may be passed in terms of above settlement.

7. I have heard the parties as well as representative of the parties at length.

8. The settlements Ext. PX1 and Ext. PX2 can be legally executed between the parties and in terms of above settlements the dispute between the parties have been finally settled. In accordance with prayer made in the statements of parties the award is passed in terms of Ext. PX1 and Ext.PX2. The settlements mentioned above shall form part of the award.

9. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 28/2011(RBT No.72/2019)
Date of Institution : 13-6-2011
Date of Decision : 16-06-2025

The President/General Secretary, Kamla Dial Workers Union (Reg. No.322), Parwanoo, District Solan, H.P. ..*Petitioners.*

Versus

The Managing Director, M/s Kamla Dials & Devices Ltd., Parwanoo, District Solan, H.P. ..*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person
For the Respondent : Sh. Rahul Mahajan, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Labour Commissioner:—

“Whether the transfer orders dated 22.6.2009 issued to 6 workers namely S/Sh. Amar Nath, Raj Kumar, Vipin Kumar, Shiv Charan, Gulshan Kumar and Jagmohan Singh by the management of M/S Kamla Dials & Devices Ltd. Parwanoo, Ltd. from their Parwanoo Unit to Baddi Unit are maintainable, legal and justified as per Certified Standing Orders of the Company? If not, what service relief the transferred 6 workmen are entitled to? If yes, what are its legal effects on transferred 6 workmen?”

2. Joint application under Section 151 CPC and under the provisions of Industrial Disputes Act, 1947 have been moved on behalf of Kamla Dial Workers Union (Regd. No.322) Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, H.P. to place on record settlements dated 31.1.2025 registered on 7.5.2025 between Kamla Dial Workers Union (Regd. No.322), Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, District Solan, H.P. It is prayed that order in terms of application may be passed in accordance with the settlement already arrived between the parties. It is also submitted in the application that the said settlements have got registered with Labour-cum-Conciliation Officer, Solan, Zone Solan, H.P. on 7.5.2025 and it is prayed that in terms of said settlements issues which were referred by Government to this Tribunal stand settled in totality. Thus no dispute remained alive between Kamla Dial Workers Union and KDDL Limited. It is prayed that in the interest of justice settlements may be taken on record and further award as per terms and conditions of settlements may be passed.

3. I have heard the learned Counsel for the applicant/petitioner as well as President/General Secretary for the respondent at length.

4. The parties have produced on record settlements already arrived between them and prayed that appropriate order may be passed in terms of settlements. In view of the joint application as well settlements which are annexed with it, a compromise in accordance with law can be legally executed between the parties, hence the application is allowed in the interest of justice. Settlements be taken record. The application be tagged with the main case after its registration.

5. Statement of Sh. Vijay Kumar, President Kamla Dial Worker Union Parwanoo, Regd. No.322 has been recorded. He deposed that union has entered into settlements dated 31.1.2025 with M/s KDDL Limited Parwanoo, District Solan, Himachal Pradesh. The settlements are exhibited as Ext. PX1 and Ext. PX2. He has prayed that in terms of settlements of disputes between

union/workmen and management in respect of present reference stand settled. He also submitted that union/workmen has no claim against management in the present reference. He has further submitted that Award be passed in terms of the settlements. Separate statement of Shri Raj Singh, Authorized Signatory, M/s KDDL Limited has been recorded. He has produced on record the Board Resolution Ext. RX1. He has also mentioned that union and management have entered into settlements Ext. PX1 and Ext. PX2. He has prayed that the dispute in the present case have been settled in terms of above settlements and award may be passed in terms of above settlement.

6. I have heard the parties as well as representative of the parties at length.

7. The settlements Ext. PX1 and Ext. PX2 can be legally executed between the parties and in terms of above settlements the dispute between the parties have been finally settled. In accordance with prayer made in the statements of parties the award is passed in terms of Ext. PX1 and Ext. PX2. The settlements mentioned above shall form part of the award.

8. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 08/2015(RBT No.66/2019)
Date of Institution : 12-2-2015
Date of Decision : 16-06-2025

The President/General Secretary, Kamla Dial Workers Union (Reg. No.322), Parwanoo, District Solan, H.P. *..Petitioners.*

Versus

The Occupier/Factory Manager, M/s Kamla Dials & Devices Ltd., Plot No.3, Sector-III, Parwanoo, Himachal Pradesh. *....Respondent*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person
For the Respondent : Sh. Rahul Mahajan, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Joint Labour Commissioner:—

“Whether miscellaneous demands raised by President/General Secretary, Kamla Dial Workers Union (Reg. No.322), Parwanoo, Himachal Pradesh, H.P. vide demand notice dated 03.9.2012 (**Copy enclosed**) and vide demand notice dated 26.11.2012 (**Copy enclosed**) to be full-filled by the management of M/s Kamla Dial & Devices Ltd. Plot No.3, Sector-III, Parwanoo, Distt. Solan, Himachal Pradesh are legal and justified? If yes, what relief and service benefits the aggrieved workers are entitled to?”

2. Joint application under Section 151 CPC and under the provisions of Industrial Disputes Act, 1947 have been moved on behalf of Kamla Dial Workers Union (Regd. No.322) Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, H.P. to place on record settlements dated 31.1.2025 registered on 7.5.2025 between Kamla Dial Workers Union (Regd. No.322), Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, District Solan, H.P. It is prayed that order in terms of application may be passed in accordance with the settlement already arrived between the parties. It is also submitted in the application that the said settlements have got registered with Labour-cum-Conciliation Officer, Solan, Zone Solan, H.P. on 7.5.2025 and it is prayed that in terms of said settlements issues which were referred by Government to this Tribunal stand settled in totality. Thus no dispute remained alive between Kamla Dial Workers Union and KDDL Limited. It is prayed that in the interest of justice settlements may be taken on record and further award as per terms and conditions of settlements may be passed.

4. I have heard the Authorized Representatives of petitioner as well as learned Counsel for the respondent at length.

5. The parties have produced on record settlements already arrived between them and prayed that appropriate order may be passed in terms of settlements. In view of the joint application as well settlements which are annexed with it, a compromise in accordance with law can be legally executed between the parties, hence the application is allowed in the interest of justice. Settlements be taken record. The application be tagged with the main case after its registration.

6. Statement of Sh. Vijay Kumar, President Kamla Dial Worker Union Parwanoo, Regd. No.322 has been recorded. He deposed that union has entered into settlements dated 31.1.2025 with M/s KDDL Limited Parwanoo, District Solan, Himachal Pradesh. The settlements are exhibited as Ext. PX1 and Ext. PX2. He has prayed that in terms of settlements of disputes between union/workmen and management in respect of present reference stand settled. He also submitted that union/workmen has no claim against management in the present reference. He has further submitted that Award be passed in terms of the settlements. Separate statement of Shri Raj Singh, Authorized Signatory, M/s KDDL Limited has been recorded. He has produced on record the Board Resolution Ext. RX1. He has also mentioned that union and management have entered into settlements Ext. PX1 and Ext. PX2. He has prayed that the dispute in the present case have been settled in terms of above settlements and award may be passed in terms of above settlement.

7. I have heard the parties as well as representative of the parties at length.

8. The settlements Ext. PX1 and Ext. PX2 can be legally executed between the parties and in terms of above settlements the dispute between the parties have been finally settled. In accordance with prayer made in the statements of parties the award is passed in terms of Ext. PX1 and Ext. PX2. The settlements mentioned above shall form part of the award.

9. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Reference No. : 96/2009(RBT No.64/2019)
Date of Institution : 18-11-2009
Date of Decision : 16-06-2025

The President/General Secretary, Kamla Dial Workers Union (Reg. No.322), Parwanoo, District Solan, H.P. *..Petitioners.*

Versus

The Managing Director, M/s Kamla Dials & Devices Ltd., Parwanoo, District Solan, H.P. *..Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person
For the Respondent : Sh. Rahul Mahajan, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/ Labour Commissioner.

“Whether the transfer orders, dated 22.6.2009 respectively issued to 13 workmen namely S/Sh. Budhi Singh, Vidya Sagar, Yash Pal, Fateh Singh, Balam Singh, Devinder Verma, Rajesh Kumar, Jagdish Jaswal, Manoj Kumar, Karnail Singh, Ram Pal, Prem Chand & Ram Pal (2nd), by the management of M/s Kamla Dials & Devices Ltd. Parwanoo Ltd. from their Parwanoo Unit to Baddi Unit are maintainable, legal and justified? Whether plea of the management vide letter dated 07.8.2009 that all of them have joined their duty during the period 01.8.2009 to 04.8.2009 at Baddi Unit is legal and justified? If not, what service benefits and relief the above named 13 transferred workmen are entitled to? If yes, what are its legal effects on 13 transferred workmen?”

2. Joint application under Section 151 CPC and under the provisions of Industrial Disputes Act, 1947 have been moved on behalf of Kamla Dial Workers Union (Regd. No.322) Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, H.P. to place on record settlements dated 31.1.2025 registered on 7.5.2025 between Kamla Dial Workers Union (Regd. No.322), Parwanoo and KDDL Limited, Plot No.3, Sector-III, Parwanoo, District Solan, H.P. It is prayed that order in terms of application may be passed in accordance with the settlement already arrived between the parties. It is also submitted in the application that the said settlements have got registered with Labour-cum-Conciliation Officer, Solan, Zone Solan, H.P. on 7.5.2025 and it is prayed that in terms of said settlements issues which were referred by Government to this Tribunal stand settled in totality. Thus no dispute remained alive between Kamla Dial Workers Union and KDDL Limited. It is prayed that in the interest of justice settlements may be taken on record and further award as per terms and conditions of settlements may be passed.

4. I have heard the learned Counsel for the applicant/petitioner as well as President/General Secretary for the respondent at length.

5. The parties have produced on record settlements already arrived between them and prayed that appropriate order may be passed in terms of settlements. In view of the joint application as well settlements which are annexed with it, a compromise in accordance with law can be legally executed between the parties, hence the application is allowed in the interest of justice. Settlements be taken record. The application be tagged with the main case after its registration.

6. Statement of Sh. Vijay Kumar, President Kamla Dial Worker Union Parwanoo, Regd. No.322 has been recorded. He deposed that union has entered into settlements dated 31.1.2025 with M/s KDDL Limited Parwanoo, District Solan, Himachal Pradesh. The settlements are exhibited as Ext. PX1 and Ext. PX2. He has prayed that in terms of settlements of disputes between union/workmen and management in respect of present reference stand settled. He also submitted that union/workmen has no claim against management in the present reference. He has further submitted that Award be passed in terms of the settlements. Separate statement of Shri Raj Singh, Authorized Signatory, M/s KDDL Limited has been recorded. He has produced on record the Board Resolution Ext. RX1. He has also mentioned that union and management have entered into settlements Ext. PX1 and Ext. PX2. He has prayed that the dispute in the present case have been settled in terms of above settlements and award may be passed in terms of above settlement.

7. I have heard the parties as well as representative of the parties at length.

8. The settlements Ext. PX1 and Ext. PX2 can be legally executed between the parties and in terms of above settlements the dispute between the parties have been finally settled. In accordance with prayer made in the statements of parties the award is passed in terms of Ext. PX1 and Ext.PX2. The settlements mentioned above shall form part of the award.

9. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of June, 2025.

Sd/-
(PARVEEN CHAUHAN)
Presiding Judge,
Industrial Tribunal-cum-Labour Court
Kangra at Dharamshala, H.P.

