

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2025
(@SPECIAL LEAVE PETITION(CIVIL)NO. 19648 OF 2023)

A1: THE JOINT SECRETARY, CENTRAL BOARD OF
SECONDARY EDUCATION

A2: THE SECRETARY, CENTRAL BOARD OF
SECONDARY EDUCATION

APPELLANT(S)

VERSUS

R1/(PVT.RESPONDENT): RAJ KUMAR MISHRA

R2: M/S. MAN POWER SERVICES & SECURITY

R3: FRANK R. MANESSEE

RESPONDENT(S)

WITH

CIVIL APPEAL NO. OF 2025
(@SPECIAL LEAVE PETITION(CIVIL)NO. 22030 OF 2023)

O R D E R

Leave granted.

2. The present appeals are directed against the orders dated 30.05.2023 and 25.05.2023 passed by the High Court of Judicature at Allahabad in Writ-C Nos.17395/2023 and 17391 of 2023, by which the awards dated 27.04.2022 and 31.08.2022 against the appellants were set aside and the matters were remanded to the Labour Court for fresh adjudication on merits.

3. Learned Counsel for the appellants submits that a simple case has been made complex only due to the fact that the Labour Court had clearly misunderstood and misconstrued the nature of the relationship between the appellants and the private respondents. It was submitted that the private respondent was hired through the contractor and though he had worked for the appellants, but only as a representative of the contractor with whom there was a contract for labour supply. It was further submitted that though the private respondents had been allocated various works and was also transferred from one responsibility to the other, it would not

change the nature of employment to that of a direct employee under the appellants but only as a person working for the appellants, being outsourced from the contractor concerned. Learned counsel further submits that to prove this fact effectively, the contractor of the private respondents had raised bills with the appellants and have been paid for the same in which a list of the persons has been enclosed and the name of the private respondents also find place in the same.

4. *Per contra*, learned Senior Counsel for the respondents submits that he was an employee under the appellants for the reason that there was a supervisory control over him by the appellants which is not disputed.

5. In support of such contention, learned counsel drew the attention of the Court to various documents which indicate that their services were being transferred from one place to the other under the appellants and he was made to perform different duties. It was submitted in view of the fact that there was direct supervisory and jurisdictional control of the appellants over the services of the private respondents, the master-servant relationship being established, the award of the Labour Court was correct. Moreover, it was contended that ultimately the High Court after setting aside the award, remanded the matter back to the Labour Court for adjudication, which would go into the material aspects as well as the factual aspects and would decide the case on merits, after taking evidence from both the sides and the appellants have an opportunity to come clean with regard to the stand that the private respondents were not its employees.

6. Having considered the facts and circumstances of the case(s) and submissions of learned counsel for the parties, we find

substance in the contentions of learned counsel for the appellants. The issue whether the private respondents were employees of the appellants, is the crux of the matter. Whatever material has been placed and even the best point which was argued by the learned Senior Counsel for the private respondents before this Court was that since there was supervisory and jurisdictional control over the private respondents by the appellants, *ipso facto*, they would become employees of the appellants is noted only to be rejected.

7. This is not only a very simplistic approach, but also a totally erroneous approach in law. For a person to claim employment under any organization, a direct master-servant relationship has to be established on paper. In the present case(s), admittedly, the only document, which the private respondents have in their favour, is showing that they were posted at various places doing different nature of work.

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

9. Had it been the case where there were other materials also in favour of the private respondents in both cases showing that they may have a case for being considered as an employee of the appellants, we may not have interfered with the orders impugned and would have left it to the Labour Court to once again to go into the matter(s) on merits. However, when the best defence of the private respondents in both cases, as discussed *supra*, has been found to be totally of no consequence to the private respondents in both cases, we find that the remand would be an exercise in futility.

10. Accordingly, the appeals stand allowed. The order(s) impugned are set aside to the extent the matters have been remanded to the Labour Court. As the awards have already been quashed, no separate

order needs to be passed in this regard.

11. Pending application(s), if any, shall stand disposed of.

....., J.
(AHSANUDDIN AMANULLAH)

....., J.
(PRASHANT KUMAR MISHRA)

NEW DELHI
17th MARCH, 2025.

ITEM NO.53

COURT NO.17

SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 19648/2023

[Arising out of impugned final judgment and order dated 30-05-2023 in WRITC No. 17395/2023 passed by the High Court of Judicature at Allahabad]

THE JOINT SECRETARY, CENTRAL BOARD OF
SECONDARY EDUCATION & ANR.

PETITIONER(S)

VERSUS

RAJ KUMAR MISHRA & Ors.

RESPONDENT(S)

IA No. 120444/2024 - APPLICATION FOR PERMISSION; IA No. 179447/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; IA No. 116409/2024 - EXEMPTION FROM FILING O.T.; IA No. 116407/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

WITH

SLP(C) No. 22030/2023 (XI)

FOR APPLICATION FOR PERMISSION ON IA 120631/2024

IA No. 120631/2024 - APPLICATION FOR PERMISSION

Date : 17-03-2025 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Ms. Pankhuri Shrivastava, Adv.
Ms. Neelam Sharma, AOR
Mr. Alekshendra Sharma, Adv.
Mr. Aditya Kumar, Adv.

For Respondent(s) Mr. Bharat Sangal, Sr. Adv.
Ms. Vernika Tomar, AOR
Ms. Babita Khushwaha, Adv.
Ms. Tejaswita, Adv.
Mr. Hemant Kumar Tripathi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

2. The appeals stand allowed in terms of the signed order.
3. Pending application(s), if any, shall stand disposed of.

(VARSHA MENDIRATTA)
COURT MASTER (SH)

(ANJALI PANWAR)
COURT MASTER (NSH)

(Signed order is placed on the file)