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राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

सोमवार, 13 जुलाई, 2026 / 22 आषाढ़, 1948

हिमाचल प्रदेश सरकार

LABOUR EMPLOYMENT & OVERSEAS PLACEMENT DEPARTMENT

NOTIFICATION

Shimla-171 002, the 24th June, 2026

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 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.	61/23	Suresh Kumar	M.D, HPGIC & Others	09-05-2026
2.	63/23	Vijay Kumar	M.D, HPGIC & Others	09-05-2026
3.	65/23	Resham Singh	M.D, HPGIC & Others	09-05-2026
4.	66/23	Sanjay Kumar	M.D, HPGIC & Others	09-05-2026
5.	49/24	Raj Kumar	E.E. Jal Shakti Sarkaghat, Mandi & Other.	19-05-2026
6.	50/24	Meena Devi	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
7.	52/24	Anoop Kumar	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
8.	53/24	Bharat Singh	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
9.	54/24	Raju Ram	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
10.	55/24	Rami Kiran	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
11.	56/24	Rajender Singh	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
12.	57/24	Jai Paul	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
13.	58/24	Manoj Kumar	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
14.	59/24	Babli Devi	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
15.	60/24	Om Prakash	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
16.	61/24	Praveen Kumar	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
17.	62/24	Besari Kumar	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
18.	63/24	Ramesh Chand	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
19.	64/24	Hushan Kumar	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
20.	65/24	Jagdish Chand	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
21.	75/24	Amin Chand	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
22.	76/24	Gopal Dass	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
23.	78/24	Ashok Kumar	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026
24.	79/24	Ashwani Kumar	E.E. Jal Shakti Sarkaghat, Mandi	19-05-2026

By order,

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

BEFORE THE NATIONAL LOK ADALAT
HELD AT DHARAMSHALA

[Organized by Labour Court-cum-Industrial Tribunal, Dharamshala under Section 19 of the Legal Services Authorities Act, 1987 (Central Act)].

Applicant :Sh. Suresh Kumar s/o Sh. Sadhu Ram, c/o

Sh. Rakesh Sharma, Ward No.9, Near Geeta

Bhawan, Nagar Parishad, Santokhgarh, Tehsil Una, District Una, H.P.

Respondent(s) : 1. The Managing Director, HPGIC Himrus Bhawan, Near Him Land Hotel Shimla- 171002

2. The Manager/Incharge, Desi Sarab Karkhana, Mehatpur, District Una, H.P.

3. M/s Ashish Associates c/o M/s County Liquor Bottling Plant, Plot No.5 & 5A, Industrial Area Mehatpur, Tehsil & District Una, H.P.

Number of proceedings of the

Labour Court-*cum*-Industrial

Tribunal, Dharamshala : 61/2023

Present:-

Applicant : Ms. Sapna, Ld. Adv. Vice
Respondents No.1 and 2 : Sh. Vipul Bhardwaj, Ld. Adv.
Respondent No.3 : Ms. Ritu Bala, Ld. Adv. Vice

AWARD

The dispute between the parties having been referred for determination to the National Lok Adalat and the parties having compromised/settled the case/matter, the following award is passed in terms of the settlement:

Statement of learned Authorized Representative for petitioner was recorded on 23-4-2026 wherein he has submitted that the petitioner do not want to pursue with the present reference and want to withdraw the same. According to him the petitioner does not want to continue with the reference, hence he wants to withdraw the same as per instructions of the petitioner. Therefore in view of the above statement the reference/direct claim is dismissed as withdrawn. 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. File after due completion be consigned to the Record Room.

The parties are informed that the Court fee, if any, paid by any of them shall be refunded.

Member **Judicial Officer**
(Smt. Anu Bala) **(Parveen Chauhan)**

Announced:
Date: 09-05-2026

BEFORE THE NATIONAL LOK ADALAT
HELD AT DHARAMSHALA

[Organized by Labour Court-cum-Industrial Tribunal, Dharamshala under Section 19 of the Legal Services Authorities Act, 1987 (Central Act)].

Applicant : Sh. Vijay Kumar s/o Sh. Bhim Singh, c/o
Sh. Rakesh Sharma, Ward No.9, Near Geet Bhawan, Nagar Parishad, Santokhgarh, Tehsil Una, District Una, H.P.

Respondent(s) : 1. The Managing Director, HPGIC Himrus Bhawan, Near Him Land Hotel Shimla-171002

2. The Manager/Incharge, Desi Sarab Karkhana, Mehatpur, District Una, H.P.

3. M/s Ashish Associates c/o M/s County Liquor Bottling Plant, Plot No.5 & 5A, Industrial Area Mehatpur, Tehsil & District Una, H.P.

Number of proceedings of the

Labour Court-*cum*-Industrial

Tribunal, Dharamshala : 63/2023

Present:—

Applicant : Ms. Sapna, Ld. Adv. Vice
Respondents No.1 and 2 : Sh. Vipul Bhardwaj, Ld. Adv.
Respondent No.3 : Ms. Ritu Bala, Ld. Adv. Vice

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Announced:
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BEFORE THE NATIONAL LOK ADALAT
HELD AT DHARAMSHALA

[Organized by Labour Court-cum-Industrial Tribunal, Dharamshala under Section 19 of the Legal Services Authorities Act, 1987 (Central Act)]

Applicant : Sh. Resham Singh s/o Sh. Maha Singh, c/o Sh. Rakesh Sharma, Ward No.9, Near Geeta Bhawan, Nagar Parishad, Santokhgarh, Tehsil Una, District Una, H.P.

Respondent(s) : 1. The Managing Director, HPGIC Himrus Bhawan, Near Him Land Hotel Shimla-171002.

2. The Manager/Incharge, Desi Sarab Karkhana, Mehatpur, District Una, H.P.

3. M/s Ashish Associates c/o M/s County Liquor Bottling Plant, Plot No. 5 & 5A, Industrial Area Mehatpur, Tehsil & District Una, H.P.

Number of proceedings of the

Labour Court-*cum*-Industrial

Tribunal, Dharamshala : 65/2023

Present:—

Applicant : Ms. Sapna, Ld. Adv. Vice
Respondents No.1 and 2 : Sh. Vipul Bhardwaj, Ld. Adv.
Respondent No.3 : Ms. Ritu Bala, Ld. Adv. Vice

AWARD

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Member **Judicial Officer**
(Smt. Anu Bala) **(Parveen Chauhan)**

Announced:
Date: 09-05-2026

BEFORE THE NATIONAL LOK ADALAT
HELD AT DHARAMSHALA

[Organized by Labour Court-cum-Industrial Tribunal, Dharamshala under Section 19 of the Legal Services Authorities Act, 1987 (Central Act)]

Applicant : Sh. Sanjay Kumar s/o Sh. Ram Asra, c/o Sh. Rakesh Sharma, Ward No. 9, Near Geeta Bhawan, Nagar Parishad, Santokhgarh, Tehsil Una, District Una, H.P.

Respondent(s) : 1. The Managing Director, HPGIC Himrus Bhawan, Near Him Land Hotel Shimla-171002

2. The Manager/Incharge, Desi Sarab Karkhana, Mehatpur, District Una, H.P.

3. M/s Ashish Associates c/o M/s County Liquor Bottling Plant, Plot No. 5 & 5A, Industrial Area Mehatpur, Tehsil & District Una, H.P.

Number of proceedings of the

Labour Court-*cum*-Industrial

Tribunal, Dharamshala : 66/2023

Present:—
Applicant : Ms. Sapna, Ld. Adv. Vice
Respondents No. 1 and 2 : Sh. Vipul Bhardwaj, Ld. Adv.
Respondent No. 3 : Ms. Ritu Bala, Ld. Adv. Vice

AWARD

The dispute between the parties having been referred for determination to the National Lok Adalat and the parties having compromised/settled the case/matter, the following award is passed in terms of the settlement :

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The parties are informed that the Court fee, if any, paid by any of them shall be refunded.

Member **Judicial Officer**
(Smt. Anu Bala) **(Parveen Chauhan)**

Announced:
Date: 09-05-2026

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

Ref. No. : 49/2024 **Date of Institution : 06-11-2024** **Date of Decision : 19-5-2026**

Shri Raj Kumar s/o Shri Nand Lal, r/o Village Tikkari Waha, Tehsil Baldwara, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

For the petitioner : Sh. N.L. Kaundal, Ld. AR : Sh. Vijay Kaundal, Ld. Adv. For the respondent No.1: Sh. B.C. Katoch, Ld. Dy. D.A. For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Raj Kumar s/o Shri Nand Lal, r/o Village Tikkari Waha, Tehsil Baldwara, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that the Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the month of April, 2019 and circulated to all the head of department *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview in the month of January, 2020 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Baldwara and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Baldwara on 20-1-2020 and when petitioner reported for duty he was provided duty as beldar *w.e.f.* 20-1-2020 at LWSS Dhalwan and he continuously worked till 31-3-2023. It is alleged that the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Baldwara without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs. 3500/-were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 20-1-2020 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the

petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. *vide* report No.LI/JNR/ID/2021-519 dated 19-10-2024. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no. 1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 20-1-2020 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 344 days in the year 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 20-1-2020 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is

asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not a gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was his employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2023 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub-Division Bhaderar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is denied that respondent no.1 had verbally terminated the service of petitioner on 1-4-2023 without complying with the provisions of Industrial Disputes Act. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily waged by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and

made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Raj Kumar in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice dated 3-8-2023 Ext. PW1/B, copy of reply filed by respondent no.1 Ext. PW1/C, copy of reply filed by respondent no. 2 Ext. PW1/D and copy of rejoinder dated 14-12-2023 Ext. PW1/E. Petitioner has also examined Shri Virender Kumar s/o Late Shri Bali Ram, r/o Village Kotrohan, P.O. Kot, Tehsil Baldwara, District Mandi, H.P. as PW2 by way of examination-in-chief wherein he has stated that he is posted as fitter since 2006 under Samela Section Baldwara and still working in the same place. He stated that Shri Raj Kumar was posted as beldar with him. Attendance register from January, 2023 to March, 2023 bears his signatures and he had verified the attendance of petitioner and sometimes it was done by Supervisor and JE which are exhibited as Ext. PW2/A to Ext. PW2/C. Miss Riya Dhiman is examined by the petitioner as PW3 wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW3/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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	:	Partly Yes
Issue No. 2	:	Decided accordingly
Issue No. 3	:	No
Relief	:	Claim petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issue No. 1

10. The petitioner has deposed in his affidavit that Himachal Pradesh Jal Shakti Vibhag Shimla had issued a notification to fill up the vacant posts of pump operators, helpers and other categories after obtaining necessary documents. The petitioner was made aware of this notification by way of regular employees of the department of respondent no.1 and he contacted the superintendent of the office of Jal Shakti Division Sarkaghat. He was also informed that interview was being conducted for the above posts. He attended the interview conducted by Executive Engineer, Jal Shakti Division Sarkaghat as well as Jal Shakti Division Baldwara and also submitted his essential documents to respondent no.1. He further states that after interview he was verbally asked to report for duties in the office of Assistant Engineer, Jal Shakti Sub Division Baldwara on 20-1-2020 at GWSS Tikrri Naun Nadgi and Waha Tank. He alleged that he continuously worked upto 31-3-2023. On 31-1-2020 he was illegally enrolled under the rolls of M/s Shimla Cleanways (Contractor) by the Assistant Engineer. His work was verified by Junior Engineer and regular fitter of the department. He was paid through Shimla Cleanways upto 31-12-2022 even though he performed his service till 31-3-2023. He has alleged that his services were illegally terminated *w.e.f.* 1-4-2023. He has further alleged that since more than 20 workmen were engaged through outsource agency M/s Shimla Cleanways (respondent no. 2), Contract Labour (Regulation and Abolition) Act, 1970 is applicable. In these circumstances respondents had mandatorily not complied with essential registration under Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970. In absence of the same, so called outsource system was sham and camouflage. He submitted that work performed by the petitioner was perennial in nature which could be done by regular workers working whole time. It is also submitted that outsource system was merely sham and camouflage which required contract labour to be treated as employee of principal employer. He has alleged that the act and conduct of the respondent no.1 to obtain service of workman through contractor was merely to deny the benefit and status of regular employees to the workmen which amounts to unfair labour practice under the Industrial Disputes Act, 1947.

11. Petitioner has examined PW2 Shri Virender Kumar who deposed on oath that he had worked as fitter under the respondent no.1 at Samela Section Baldwara since 2006. According to him petitioner used to work with him and his (petitioner's) attendance is Ext. PW2/A to Ext. PW2/C for January, February and March, 2023 which bears his signatures. He used to verify the attendance and sometimes it was also verified by the Junior Engineer or Supervisor.

12. RW1 Shri Vivek Hazri has stated on oath that petitioner was employee of the respondent no. 2 and respondent no.1 had no concern with him. He has denied that petitioner was interviewed and appointed by respondent no.1. He has asserted that respondent had executed a contract agreement with respondent no. 2 as an outsource agency which agreement had expired on 31-12-2022. The petitioner had worked only upto 31-12-2022 as an outsource employee of outsource agency. According to him petitioner is not entitled for benefits beyond 31-12-2022.

13. RW2 Shri Bhupesh Janartha, Contractor, M/s Shimla Cleanways has also deposed that petitioner was engaged purely on outsource basis through his company. The petitioner was aware that his engagement was temporary and co-terminous with contract. The expiry of contract was on 31-12-2022. The services of outsource employees automatically ended.

14. The petitioner has however alleged that his appointment was actually done by respondent no.1 by way of interview pursuant to notification regarding various works. No such notification or record of interview has been produced in the case file. The petitioner admitted that

every government post is advertised and the process is followed for recruitment. He admitted that he has not produced record allegedly submitted by him to the department neither he could produce the appointment letter issued by the respondent no.1.

15. Ext. RW1/B is job letter contract provided by respondent no.1 to respondent no. 2 initially this contract was for a period of one year. Ext. RW1/C is the agreement to provide manpower. Mark R2/A is the certificate of work duly completed by respondent no. 2 of the awarded amount upto 31-12-2022 and balance of security.

16. Petitioner is alleging that he had worked upto 31-3-2023 with respondent no.1. This allegation is supported and corroborated by deposition of PW2 Shri Virender Kumar who has certified this fact by Ext. PW2/A to Ext. PW2/C which show that petitioner has worked with respondent no.1 upto 31-3-2023. This witness has admitted that this register entries were not verified by supervisor and not signed by any officer. This admission is not enough to prove that any false document has been prepared and produced by this witness. No suggestion was made to him that he was not an employee of respondent no.1 and also that he was not duly authorized to verify the attendance register of workman. He has completely shown ignorance to the fact that bill was claimed on the basis of muster roll prepared by M/s Shimla Cleanways. Pertinent to observe that no such muster rolls prepared by M/s Shimla Cleanways has been produced by respondents with regard to work done by the petitioner after 31-12-2022.

17. RW2 Shri Bhupesh Janartha the contractor of M/s Shimla Cleanways has very clearly stated that after expiry of contract agreement which took place on 31-12-2022 the labour was not employed by them. RW1 Shri Vivek Hazri has expressed ignorance to the document Ext. PW2/A. He insists that petitioner's contract ended on 31-12-2022. Significantly, he has mentioned that from 1-1-2023 to 31-3-2023 only regular employees of the department had carried out the work. No documentary evidence of the work done by regular employees or their attendance corresponding to the dates on which attendance of petitioner is marked has been produced on record. Respondents have also not produced any record of attendance shown to be verified by JE or supervisor or by the contractor. The above evidence clearly shows that work of labour was verified by PW2. Once the respondent no.1 has failed to produce attendance record of regular workers from 1-1-2023 to 31-3-2023 the contention of the petitioner finds weight. It is established that upto 31-12-2022 the petitioner worked on the rolls of respondent no. 2 and thereafter upto 31-3-2023 there was no contract existing between the respondent no.1 and respondent no. 2.

18. RW1 Shri Vivek Hazri has admitted the signatures of Assistant Engineer on Ext. R1 where the petitioner is shown to have worked upto 365 days till 31-12-2022. This document along-with Ext PW2/A to Ext. PW2/C clearly depict that the petitioner was continuously working with respondent no.1 for 240 days prior to 31-3-2023. It is the contention raised by respondents no.1 and 2 that petitioner was employed only on part-time basis for six hours per day. The mandays chart Ext. R1 produced on record does not mention this fact. The definition of workmen under Section 2(s) of the Industrial Disputes Act, 1947 as follows:—

> "2(s) ["workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person- *[Substituted by Act 46 of 1982, Section 2, for Cl. (s) (w.e.f. 21-8-1984).]*

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison, or

(iii) who is employed mainly in a managerial or administrative capacity, or

(iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]"

The above definition clearly does not make distinction between full and part-time worker.

19. The petitioner however has not been able to prove that petitioner was inducted on a sanctioned post by way of direct interview by respondent no.1. The work contract between respondent no.1 and respondent no. 2 expired on 31-12-2022. Despite this respondent no.1 had continued to avail the services of the petitioner after expiry of the period of contract *i.e.* 31-12-2022. At the time of alleged termination, petitioner could not be termed as contract labour, petitioner has completed continuous service of 240 days preceding his termination therefore respondent no.1 was under an obligation to comply with the provisions of the Industrial Disputes Act, 1947. It is established that termination of the services of petitioner by the respondent no.1 *w.e.f.* 1-4-2023 was illegal and unjustified and in violation of the provisions of the Industrial Disputes Act, 1947. Accordingly issue no.1 is decided in the favour of petitioner.

Issue No. 2

20. It is proved that the termination of petitioner was under respondent no.1 and petitioner himself deposed that M/s Shimla Cleanways had not terminated his services. He has denied that after 31-12-2022 there is no liability of M/s Shimla Cleanways to pay his salary but it is a proved fact that after 31-12-2022 there was no existing contract of supply of labour to respondent no.1 by respondent no. 2. In case there was any violation of the provisions pertaining to Section 7 and Section 12 Clause (1) of Contract Labour (Regulations and Abolition Act), 1970 the remedy lies within the Act specifically the provisions of penalty for the above violations. The continuous employment of petitioner after expiry of contract agreement and non payment of salary of the said period along-with termination of his services without compliance under Section 25 Clause F also amounted to unfair labour practice under Schedule Vth of the Industrial Disputes Act, 1947. In the light of above established facts and circumstances, the petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs. 50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and grant him seniority and continuity of service from 1-1-2023 onwards.

Issue No. 3

21. The onus of proving this issue was on the respondents. The maintainability of the claim was primarily challenged on the ground that there was no direct relationship of master and servant between respondent no.1 and the petitioner. It was also submitted that petitioner has worked only upto 31-12-2022 *i.e.* during subsistence of contract of supply of labour between respondent no.1 and respondent no. 2. It however appeared from the evidence that the petitioner has worked

with respondent no.1 beyond the above period and his services were terminated without compliance of Section 25 Clause F of the Industrial Disputes Act, 1947. Hence the petition is maintainable and issue no.3 is decided in the favour of petitioner and against the respondents.

RELIEF

22. In view of my discussion on the issues no. 1 to 3 above, the claim petition succeeds and is partly allowed. The petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs.50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and grant him seniority and continuity of service from 1-1-2023 onwards. Parties are left to bear their costs.

23. 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 19th day of May, 2026.

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

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

Ref. No. : 50/2024 Date of Institution : 06-11-2024 Date of Decision : 19-5-2026

Smt. Meena Devi w/o Shri Ritesh Kumar, r/o Village Ghadhayara, P.O. Ropari, Tehsil Sarkaghat, District Mandi, H.P.

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer) ..*Petitioner.*

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2 : Sh. Jatinder Rana, 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 termination of services of Smt. Meena Devi w/o Shri Ritesh Kumar, r/o Village Ghadhayara, P.O. Ropari, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then she enquired about the process of appointment thereafter the petitioner attended interview on September, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Sub Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 19-9-2019 and when petitioner reported for duty she was provided duty as Beldar *w.e.f.* 19-9-2019 at LWSS Sarkaghat (Gadhayara) and she continuously worked till 31-3-2023. It is alleged that on 30-9-2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without written consent of the petitioner. It is submitted that from the date of petitioner's engagement she performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed her duties along-with regular employees of the department. It is asserted that the during the period of her service the work and conduct of the petitioner was satisfactory and she had never given any chance for complaint to the department officials and her regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 19-9-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked her daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed her duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is

asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before her termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 19-9-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of her termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 104 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed her duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 19-9-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during her services that she had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of her termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at her old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as she supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as she was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as she (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However she was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and she worked as a beldar under that agreement until the contract expired as part time worker. Her posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part

time worker through outsource arrangement and as such her attendance was not required to be recorded in the regular muster roll maintained by the department. The record of her work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without her consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. Her claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in her case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of her engagement however her relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged?

..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed?

..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Smt. Meena Devi in order to prove her case examined herself as PW1 by way of affidavit Ext. PW1/A. She has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no.1 Ext. PW1/C, copy of reply filed by respondent no. 2 Ext. PW1/D and copy of rejoinder Ext. PW1/E. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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
Relief.	: Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issue No.1

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to her appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023. The petitioner has deposed that her services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in her cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. She has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. She has admitted that post on which she was allegedly appointed was not advertised neither any written test was conducted though she has mentioned that interview was conducted however she is ignorant of the fact whether any result was

declared. According to him she was informed about the selection by way of telephonic communication only. She has admitted that on appointment in government job an appointment letter is issued however she has admitted that no such appointment letter was received by him. She has admitted that her salary was paid in her bank account by respondent no. 2. She has shown her ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that she had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that she was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that her services were illegally enrolled in the roll of respondent no. 2 on 30-9-2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 15-7-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673).** Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7

and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos. 8446-8447 of 2022** has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:-

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
>
> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.
>
> 4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.
>
> 4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:-
>
> A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.
>
> 4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:-

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court

including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the

remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

> "38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that her services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim herself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of her salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The

termination of petitioner on 31-12-2022 is not in question. Petitioner has herself conceded that she was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No.3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. : 52/2024 Date of Institution : 06-11-2024 Date of Decision :19-5-2026

Shri Anoop Kumar s/o Shri Jeewan Kumar, r/o Village Gharwashra, P.O. Dhalwan, Tehsil Baldwara, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents*.

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Anoop Kumar S/O Shri Jeewan Kumar, R/O Village Gharwashra, P.O. Dhalwan, Tehsil Baldwara, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that the Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the month of April, 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview in the month of January, 2020 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Baldwara and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Baldwara on 20-1-2020 and when petitioner reported for duty he was provided duty as beldar *w.e.f.* 20-1-2020 at WSS Dhalwan and he continuously worked till 31-3-2023. It is alleged that the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Baldwara without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 20-1-2020 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs. 3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by

respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. vide report No. LI/JNR/ID/2021-519 dated 19.10.2024. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 20-1-2020 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 336 days in the year 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2 (ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 20-1-2020 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2

terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14, 16 and 21 of the Constitution of India. It is asserted that the petitioner was not a gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine and respondents be directed to pay litigation costs of Rs.15000/-

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2023 till 31-3-2023. It is mentioned that once agreement expired and question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 3.1.2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is denied that respondent no.1 had verbally terminated the service of petitioner on 1-4-2023 without complying with the provisions of Industrial Disputes Act. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily waged by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It

is asserted that contract agreement with outsource agency ended on 31-12-2022 and respondent no.1 had releasd full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

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

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

1. Whether the termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

6. Petitioner Shri Anoop Kumar in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice dated 3-8-2023 Ext. PW1/B and copy of rejoinder dated 14-12-2023 Ext. PW1/C. Petitioner has also examined Shri Desh Raj, Junior Engineer, Division Sarkaghat, District Mandi, H.P. as PW2 by way of examination-in-chief wherein he has stated that Shri Anoop Singh and Shri Bharat Singh were posted as water guard and beldar under his control. Attendance register from January, 2023 to March, 2023 which are exhibited as Ext. PW3/A to Ext. PW3/C. Miss Riya Dhiman has examined by the petitioner as PW3 wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW3/A.

7. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-B.

8. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for respondent no.1 and learned counsel for respondent no. 2 at length and records perused.

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

Issue No.1 : Partly Yes

Issue No. 2 : Decided accordingly

Issue No. 3 : No

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

REASONS FOR FINDINGS

Issue No.1

10. The petitioner has deposed in his affidavit that Himachal Pradesh Jal Shakti Vibhag Shimla had issued a notification to fill up the vacant posts of pump operators, helpers and other categories after obtaining necessary documents. The petitioner was made aware of this notification

by way of regular employees of the department of respondent no.1 and he contacted the superintendent of the office of Jal Shakti Division Sarkaghat. He was also informed that interview was being conducted for the above posts. He attended the interview conducted by Executive Engineer, Jal Shakti Division Sarkaghat as well as Jal Shakti Division Baldwara and also submitted his essential documents to respondent no.1. He further states that after interview he was verbally asked to report for duties in the office of Assistant Engineer, Jal Shakti Sub Division Baldwara on 1.2.2020 at GWSS Dhalwan. He alleged that he continuously worked upto 31-3-2023. On after 3.1.2020 he was illegally enrolled under the rolls of M/s Shimla Cleanways (Contractor) by the Assistant Engineer. His work was verified by Junior Engineer and regular fitter of the department. He was paid through Shimla Cleanways upto 31-12-2022 even though he performed his service till 31-3-2023. He has alleged that his services were illegally terminated *w.e.f.* 1-4-2023. He has further alleged that since more than 20 workmen were engaged through outsource agency M/s Shimla Cleanways (respondent no. 2), Contract Labour (Regulation and Abolition) Act, 1970 is applicable. In these circumstances respondents had mandatorily not complied with essential registration under Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970. In absence of the same, so called outsource system was sham and camouflage. He submitted that work performed by the petitioner was perennial in nature which could be done by regular workers working whole time. It is also submitted that outsource system was merely sham and camouflage which required contract labour to be treated as employee of principal employer. He has alleged that the act and conduct of the respondent no.1 to obtain service of workman through contractor was merely to deny the benefit and status of regular employees to the workmen which amounts to unfair labour practice under the Industrial Disputes Act, 1947.

11. Petitioner has examined PW2 Shri Desh Raj who deposed on oath that he had worked as JE at Sub Division Section Dhalwan since 2018 and presently working in Sub Division Sarkaghat. According to him Anoop Kunar (petitioner) and Bharat Singh used to work with him as water guard and beldar and Anoop Kumar (petitioner's) attendance is Ext. PW2/A to Ext. PW2/C. He has admitted that he used to confirm the attendance of petitioner though these were given by contractor. He has denied that from 1-1-2023 to 31-3-2023 he has wrongly verified the attendance of petitioner and added that petitioner has worked with him.

12. RW1 Shri Vivek Hazri has stated on oath that petitioner was employee of the respondent no. 2 and respondent no.1 had no concern with him. He has denied that petitioner was interviewed and appointed by respondent no.1. He has asserted that respondent had executed a contract agreement with respondent no. 2 as an outsource agency which agreement had expired on 31-12-2022. The petitioner had worked only upto 31-12-2022 as an outsource employee of outsource agency. According to him petitioner is not entitled for benefits beyond 31-12-2022.

13. RW2 Shri Bhupesh Janartha, Contractor, M/s Shimla Cleanways has also deposed that petitioner was engaged purely on outsource basis through his company. The petitioner was aware that his engagement was temporary and co-terminous with contract. The expiry of contract was on 31-12-2022. The services of outsource employees automatically ended.

14. The petitioner has however alleged that his appointment was actually done by respondent no.1 by way of interview pursuant to notification regarding various works. No such notification or record of interview has been produced in the case file. The petitioner admitted that every government post is advertised and the process is followed for recruitment. He admitted that he has not produced record allegedly submitted by him to the department neither he could produce the appointment letter issued by the respondent no.1.

15. Ext. RW1/B is job letter contract provided by respondent no.1 to respondent no. 2 initially this contract was for a period of one year. Ext. RW1/C is the agreement to provide

manpower. Mark R2/A is the certificate of work duly completed by respondent no. 2 of the awarded amount upto 31-12-2022 and balance of security.

16. Petitioner is alleging that he had worked upto 31-3-2023 with respondent no.1. This allegation is supported and corroborated by deposition of PW2 Shri Desh Raj who has produced attendance record verified by him Ext. PW2/A to Ext. PW2/C which show that petitioner has worked with respondent no.1 upto 31-3-2023. This witness has clearly mentioned that the petitioner has worked with him during this period. No suggestion was made to him that he was not an employee of respondent no.1 and also that he was not duly authorized to verify the attendance register of workman. He has admitted that attendance was supplied by contractor but is unaware that contract ended on 31-12-2022. Pertinent to observe that attendance records Ext. PW2/A to Ext. PW2/C do not bear any stamp of contractor.

17. RW2 Shri Bhupesh Janartha the contractor of M/s Shimla Cleanways has very clearly stated that after expiry of contract agreement which took place on 31-12-2022 the labour was not employed by them. RW1 Shri Vivek Hazri has expressed ignorance to the document Ext. PW2/A. He insists that petitioner's contract ended on 31-12-2022. Significantly, he has mentioned that from 1-1-2023 to 31-3-2023 only regular employees of the department had carried out the work. No documentary evidence of the work done by regular employees or their attendance corresponding to the dates on which attendance of petitioner is marked has been produced on record. Respondents have also not produced any other record of attendance shown to be verified by JE or supervisor or by the contractor. The above evidence clearly shows that work of labour was verified by PW2 Desh Raj. Once the respondent no.1 has failed to produce attendance record of regular workers from 1-1-2023 to 31-3-2023 the contention of the petitioner finds weight. It is established that upto 31-12-2022 the petitioner worked on the rolls of respondent no. 2 and thereafter upto 31-3-2023 there was no contract existing between the respondent no.1 and respondent no. 2.

18. RW1 Shri Vivek Hazri has admitted the signatures of Assistant Engineer on Ext. R1 where the petitioner is shown to have worked upto 365 days till 31-12-2022. This document along-with Ext PW2/A to Ext. PW2/C clearly depict that the petitioner was continuously working with respondent no.1 for 240 days prior to 31-3-2023. It is the contention raised by respondents no.1 and 2 that petitioner was employed only on part-time basis for six hours per day. The mandays chart Ext. R1 produced on record does not mention this fact. The definition of workmen under Section 2(s) of the Industrial Disputes Act, 1947 as follows:-

> "2(s)["workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person- *[Substituted by Act 46 of 1982, Section 2, for Cl. (s) (w.e.f. 21.8.1984).]*
>
> (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
>
> (ii) who is employed in the police service or as an officer or other employee of a prison, or
>
> (iii) who is employed mainly in a managerial or administrative capacity, or
>
> (iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the

office or by reason of the powers vested in him, functions mainly of a managerial nature.]"

The above definition clearly does not make distinction between full and part-time worker.

19. The petitioner however has not been able to prove that petitioner was inducted on a sanctioned post by way of direct interview by respondent no.1. The work contract between respondent no.1 and respondent no. 2 expired on 31-12-2022. Despite this respondent no.1 had continued to avail the services of the petitioner after expiry of the period of contract *i.e.* 31-12-2022. At the time of alleged termination, petitioner could not be termed as contract labour, petitioner has completed continuous service of 240 days preceding his termination therefore respondent no.1 was under an obligation to comply with the provisions of the Industrial Disputes Act, 1947. It is established that termination of the services of petitioner by the respondent no.1 *w.e.f.* 1-4-2023 was illegal and unjustified and in violation of the provisions of the Industrial Disputes Act, 1947. Accordingly issue no.1 is decided in the favour of petitioner.

Issue No. 2

20. It is proved that the termination of petitioner was under respondent no.1 and petitioner himself deposed that M/s Shimla Cleanways had not terminated his services. He has denied that after 31-12-2022 there is no liability of M/s Shimla Cleanways to pay his salary but it is a proved fact that after 31-12-2022 there was no existing contract of supply of labour to respondent no.1 by respondent no. 2. In case there was any violation of the provisions pertaining to Section 7 and Section 12 Clause (1) of Contract Labour (Regulations and Abolition Act), 1970 the remedy lies within the Act specifically the provisions of penalty for the above violations. The continuous employment of petitioner after expiry of contract agreement and non payment of salary of the said period along-with termination of his services without compliance under Section 25 Clause F also amounted to unfair labour practice under Schedule Vth of the Industrial Disputes Act, 1947. In the light of above established facts and circumstances, the petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs.50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and grant him seniority and continuity of service from 1-1-2023 onwards.

Issue No. 3

21. The onus of proving this issue was on the respondents. The maintainability of the claim was primarily challenged on the ground that there was no direct relationship of master and servant between respondent no.1 and the petitioner. It was also submitted that petitioner has worked only upto 31-12-2022 *i.e.* during subsistence of contract of supply of labour between respondent no.1 and respondent no. 2. It however appeared from the evidence that the petitioner has worked with respondent no.1 beyond the above period and his services were terminated without compliance of Section 25 Clause F of the Industrial Disputes Act, 1947. Hence the petition is maintainable and issue no.3 is decided in the favour of petitioner and against the respondents.

RELIEF

22. In view of my discussion on the issues no. 1 to 3 above, the claim petition succeeds and is partly allowed. The petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs.50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and

grant him seniority and continuity of service from 1-1-2023 onwards. Parties are left to bear their costs.

23. 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 19th day of May, 2026.

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

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

Ref. No. :53/2024 Date of Institution : 06-11-2024 Date of Decision :19-5-2026

Shri Bharat Singh s/o Shri Munshi Ram, r/o Village Chouhin, P.O. Balhra, Tehsil Baldwara, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Bharat Singh s/o Shri Munshi Ram, r/o Village Chouhin, P.O. Balhra, Tehsil Baldwara, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P.

(Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that the Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the month of April, 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview in the month of June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Baldwara and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Baldwara on 10-6-2019 and when petitioner reported for duty he was provided duty as Chowkidar *w.e.f.* 10-6-2019 at LWSS Majhiat and he continuously worked till 31-3-2023. It is alleged that the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Baldwara without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs. 3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 10-6-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs. 3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union (Regd. No.640) *vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not

given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 10-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 204 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 10-6-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 amd no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no. 1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14, 16 and 21 of the Constitution of India. It is asserted that the petitioner was not a gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Chowkidar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine and respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant

post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2023 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is denied that respondent no.1 had verbally terminated the service of petitioner on 1-4-2023 without complying with the provisions of Industrial Disputes Act. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily waged by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The

attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

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

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

1. Whether the termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

6. Petitioner Shri Bharat Singh in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice dated 3-8-2023 Ext. PW1/B, copy of reply filed by respondent No. 2 Ext. PW1/C and copy of rejoinder dated 14-12-2023 Ext. PW1/D. Petitioner has also examined Shri Desh Raj, Junior Engineer, Division Sarkaghat, District Mandi, H.P. as PW2 by way of examination-in-chief wherein he has stated that Shri Anoop Singh and Shri Bharat Singh were posted as water guard and beldar under his control. Attendance register from January, 2023 to

March, 2023 which are exhibited as Ext. PW3/A to Ext. PW3/C. Miss Riya Dhiman has examined by the petitioner as PW3 wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW3/A.

7. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

8. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for respondent no.1 and learned counsel for respondent no. 2 at length and records perused.

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

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

REASONS FOR FINDINGS

Issue No. 1

10. The petitioner has deposed in his affidavit that Himachal Pradesh Jal Shakti Vibhag Shimla had issued a notification to fill up the vacant posts of pump operators, helpers and other categories after obtaining necessary documents. The petitioner was made aware of this notification by way of regular employees of the department of respondent no.1 and he contacted the superintendent of the office of Jal Shakti Division Sarkaghat. He was also informed that interview was being conducted for the above posts. He attended the interview conducted by Executive Engineer, Jal Shakti Division Sarkaghat as well as Jal Shakti Division Baldwara and also submitted his essential documents to respondent no.1. He further states that after interview he was verbally asked to report for duties in the office of Assistant Engineer, Jal Shakti Sub Division Baldwara on 10-6-2019 at LWSS Majhiat. He alleged that he continuously worked upto 31-3-2023. On 31-1-2020 he was illegally enrolled under the rolls of M/s Shimla Cleanways (Contractor) by the Assistant Engineer. His work was verified by officials of the department. He was paid through Shimla Cleanways upto 31-12-2022 even though he performed his service till 31-3-2023. He has alleged that his services were illegally terminated *w.e.f.* 1-4-2023. He has further alleged that since more than 20 workmen were engaged through outsource agency M/s Shimla Cleanways (respondent no. 2), Contract Labour (Regulation and Abolition) Act, 1970 is applicable. In these circumstances respondents had mandatorily not complied with essential registration under Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970. In absence of the same, so called outsource system was sham and camouflage. He submitted that work performed by the petitioner was perennial in nature which could be done by regular workers working whole time. It is also submitted that outsource system was merely sham and camouflage which required

contract labour to be treated as employee of principal employer. He has alleged that the act and conduct of the respondent no.1 to obtain service of workman through contractor was merely to deny the benefit and status of regular employees to the workmen which amounts to unfair labour practice under the Industrial Disputes Act, 1947.

11. Petitioner has examined PW2 Shri Desh Raj who deposed on oath that he had worked as JE at Sub Division Section Dhalwan since 2018 and presently working in Sub Division Sarkaghat. According to him Anoop Kunar and Bharat Singh (petitioner) used to work with him as water guard and beldar and Bharat Singh's (petitioner's) attendance is Ext. PW2/A to Ext. PW2/C. He has admitted that he used to confirm the attendance of petitioner though it was supplied by contractor. He has denied that from 1-1-2023 to 31-3-2023 he has wrongly verified the attendance of petitioner and added that petitioner has worked with him.

12. RW1 Shri Vivek Hazri has stated on oath that petitioner was employee of the respondent no. 2 and respondent no.1 had no concern with him. He has denied that petitioner was interviewed and appointed by respondent no.1. He has asserted that respondent had executed a contract agreement with respondent no. 2 as an outsource agency which agreement had expired on 31-12-2022. The petitioner had worked only upto 31-12-2022 as an outsource employee of outsource agency. According to him petitioner is not entitled for benefits beyond 31-12-2022.

13. RW2 Shri Bhupesh Janartha, Contractor, M/s Shimla Cleanways has also deposed that petitioner was engaged purely on outsource basis through his company. The petitioner was aware that his engagement was temporary and co-terminous with contract. The expiry of contract was on 31-12-2022. The services of outsource employees automatically ended.

14. The petitioner has however alleged that his appointment was actually done by respondent no.1 by way of interview pursuant to notification regarding various works. No such notification or record of interview has been produced in the case file. The petitioner admitted that every government post is advertised and the process is followed for recruitment. He admitted that he has not produced record allegedly submitted by him to the department neither he could produce the appointment letter issued by the respondent no.1.

15. Ext. RW1/B is job letter contract provided by respondent no.1 to respondent no. 2 initially this contract was for a period of one year. Ext. RW1/C is the agreement to provide manpower. Mark R2/A is the certificate of work duly completed by respondent no. 2 of the awarded amount upto 31-12-2022 and balance of security.

16. Petitioner is alleging that he had worked upto 31-3-2023 with respondent no.1. This allegation is supported and corroborated by deposition of PW2 Shri Desh Raj who has produced attendance record verified by him Ext. PW2/A to Ext. PW2/C which show that petitioner has worked with respondent no.1 upto 31-3-2023. This witness has clearly mentioned that petitioner has worked with him during this period. No suggestion was made to him that he was not an employee of respondent no.1 and also that he was not duly authorized to verify the attendance register of workman. He has admitted that attendance was supplied by the contractor but is unaware that contract ended on 31-12-2022. Pertinent to observe that attendance records Ext.PW2/A to Ext. PW2/C do not bear any stamp of contractor.

17. RW2 Shri Bhupesh Janartha the contractor of M/s Shimla Cleanways has very clearly stated that after expiry of contract agreement which took place on 31-12-2022 the labour was not employed by them. RW1 Shri Vivek Hazri has expressed ignorance to the document Ext. PW2/A. He insists that petitioner's contract ended on 31-12-2022. Significantly, he has mentioned that from 1-1-2023 to 31-3-2023 only regular employees of the department had carried out the work. No

documentary evidence of the work done by regular employees or their attendance corresponding to the dates on which attendance of petitioner is marked has been produced on record. Respondents have also not produced any other record of attendance shown to be verified by JE or supervisor or by the contractor. The above evidence clearly shows that work of labour was verified by PW2 Desh Raj. Once the respondent no.1 has failed to produce attendance record of regular workers from 1-1-2023 to 31-3-2023 the contention of the petitioner finds weight. It is established that upto 31-12-2022 the petitioner worked on the rolls of respondent no. 2 and thereafter upto 31-3-2023 there was no contract existing between the respondent no.1 and respondent no. 2.

18. RW1 Shri Vivek Hazri has admitted the signatures of Assistant Engineer on Ext. R1 where the petitioner is shown to have worked upto 365 days till 31-12-2022. This document along-with Ext PW2/A to Ext. PW2/C clearly depict that the petitioner was continuously working with respondent no.1 for 240 days prior to 31-3-2023. It is the contention raised by respondents no.1 and 2 that petitioner was employed only on part-time basis for six hours per day. The mandays chart Ext. R1 produced on record does not mention this fact. The definition of workmen under Section 2(s) of the Industrial Disputes Act, 1947 as follows:-

> "2(s)["workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person- *[Substituted by Act 46 of 1982, Section 2, for Cl. (s) (w.e.f. 21.8.1984).]*
>
> (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
>
> (ii) who is employed in the police service or as an officer or other employee of a prison, or
>
> (iii) who is employed mainly in a managerial or administrative capacity, or
>
> (iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]"

The above definition clearly does not make distinction between full and part-time worker.

19. The petitioner however has not been able to prove that petitioner was inducted on a sanctioned post by way of direct interview by respondent no.1. The work contract between respondent no.1 and respondent no. 2 expired on 31-12-2022. Despite this respondent no.1 had continued to avail the services of the petitioner after expiry of the period of contract *i.e.* 31-12-2022. At the time of alleged termination, petitioner could not be termed as contract labour, petitioner has completed continuous service of 240 days preceding his termination therefore respondent no.1 was under an obligation to comply with the provisions of the Industrial Disputes Act, 1947. It is established that termination of the services of petitioner by the respondent no.1 *w.e.f.* 1-4-2023 was illegal and unjustified and in violation of the provisions of the Industrial Disputes Act, 1947. Accordingly issue no.1 is decided in the favour of petitioner.

Issue No. 2

20. It is proved that the termination of petitioner was under respondent no.1 and petitioner himself deposed that M/s Shimla Cleanways had not terminated his services. He has denied that after 31-12-2022 there is no liability of M/s Shimla Cleanways to pay his salary but it is a proved fact that after 31-12-2022 there was no existing contract of supply of labour to respondent no.1 by respondent no. 2. In case there was any violation of the provisions pertaining to Section 7 and Section 12 Clause (1) of Contract Labour (Regulations and Abolition Act), 1970 the remedy lies within the Act specifically the provisions of penalty for the above violations. The continuous employment of petitioner after expiry of contract agreement and non payment of salary of the said period along-with termination of his services without compliance under Section 25 Clause F also amounted to unfair labour practice under Schedule Vth of the Industrial Disputes Act, 1947. In the light of above established facts and circumstances, the petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs.50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and grant him seniority and continuity of service from 1-1-2023 onwards.

Issue No. 3

21. The onus of proving this issue was on the respondents. The maintainability of the claim was primarily challenged on the ground that there was no direct relationship of master and servant between respondent no.1 and the petitioner. It was also submitted that petitioner has worked only upto 31-12-2022 *i.e.* during subsistence of contract of supply of labour between respondent no.1 and respondent no. 2. It however appeared from the evidence that the petitioner has worked with respondent no.1 beyond the above period and his services were terminated without compliance of Section 25 Clause F of the Industrial Disputes Act, 1947. Hence the petition is maintainable and issue no.3 is decided in the favour of petitioner and against the respondents.

RELIEF

22. In view of my discussion on the issues no. 1 to 3 above, the claim petition succeeds and is partly allowed. The petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs. 50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as chowkidar and grant him seniority and continuity of service from 1-1-2023 onwards. Parties are left to bear their costs.

23. 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 19th day of May, 2026.

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

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

Ref. No. : 54/2024 Date of Institution : 06-11-2024 Date of Decision :19-5-2026

Shri Raju Ram s/o Shri Lohku Ram, r/o Village Banyorka, P.O. Roprari, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Raju Ram S/O Shri Lohku Ram, R/O Village Banyorka, P.O. Roprari, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview on June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Sub Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 28-6-2019 and when petitioner reported for duty he was provided duty as Beldar *w.e.f.* 28-6-2019 at LWSS Sarkaghat and he continuously worked till 31-3-2023. It is alleged that on 30-6-2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without

written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 28-6-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union (Regd. No. 640) *vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 28-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 167 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It

is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 28-6-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14, 16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023.It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs. 3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground

for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H

does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Raju Ram in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no.1 Ext. PW1/C, copy of reply filed by respondent no. 2 Ext. PW1/D and copy of rejoinder Ext. PW1/E. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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

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

REASONS FOR FINDINGS

Issues No. 1 and 2

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to his appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023 the petitioner has deposed that his services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in his cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. He has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. He has admitted that post on which he was allegedly appointed was not advertised neither any written test was conducted though he has mentioned that interview was conducted however he is ignorant of the fact whether any result was declared. According to him he was informed about the selection by way of telephonic communication only. He has admitted that on appointment in government job an appointment letter is issued however he has admitted that no such appointment letter was received by him. He has admitted that his salary was paid in his bank account by respondent no. 2. He has shown his ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that he had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that he was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that his services were illegally enrolled in the roll of respondent no. 2 on 30-6-2019 the document Mark-R2/B the appointment letter clearly shows that initial

appointment of petitioner was conducted on 28-6-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673).** Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos. 8446-8447 of 2022** has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:-

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
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> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.
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> 4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because

sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.

4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:-

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:-

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process,

operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that his services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim himself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of his salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has himself conceded that he was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No. 3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no. 1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. :55/2024 Date of Institution : 06-11-2024 Date of Decision :19-5-2026

Smt. Rami Kiran w/o Shri Bidhi Chand, r/o Village Patti, P.O. Rissa, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)
2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Smt. Rami Kiran w/o Shri Bidhi Chand, r/o Village Patti, P.O. Rissa, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after

obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then she enquired about the process of appointment thereafter the petitioner attended interview on June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Sub Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 28-6-2019 and when petitioner reported for duty she was provided duty as Beldar *w.e.f.* 28-6-2019 at LWSS Sarkaghat (Rissa) and she continuously worked till 31-3-2023. It is alleged that on 30-6-2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without written consent of the petitioner. It is submitted that from the date of petitioner's engagement she performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed her duties along-with regular employees of the department. It is asserted that the during the period of her service the work and conduct of the petitioner was satisfactory and she had never given any chance for complaint to the department officials and her regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 28-6-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked her daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs. 3500/- per month through bank account till 31-12-2022. The petitioner had performed her duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union (Regd. No.640) *vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before her termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 28-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of her termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 187 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1

without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed her duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 28-6-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during her services that she had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act, 1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14, 16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of her termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at her old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as she supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023.It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of

petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as she was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as she (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However she was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and she worked as a beldar under that agreement until the contract expired as part time worker. Her posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such her attendance was not required to be recorded in the regular muster roll maintained by the department. The record of her work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without her consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. Her claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in her case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance

with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of her engagement however her relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged?

..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed?

..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Smt. Rami Kiran in order to prove her case examined herself as PW1 by way of affidavit Ext. PW1/A. She has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no.1 Ext. PW1/C, copy of reply filed by respondent no. 2 Ext. PW1/D and copy of rejoinder Ext. PW1/E. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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

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

REASONS FOR FINDINGS

Issue No.1

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to her appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023. The petitioner has deposed that her services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in her cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. She has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. She has admitted that post on which she was allegedly appointed was not advertised neither any written test was conducted though she has mentioned that interview was conducted however she is ignorant of the fact whether any result was declared. According to him she was informed about the selection by way of telephonic communication only. She has admitted that on appointment in government job an appointment letter is issued however she has admitted that no such appointment letter was received by him. She has admitted that her salary was paid in her bank account by respondent no. 2. She has shown her ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that she had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that she was appointed by way of interview by respondent no.1. She also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that her services were illegally enrolled in the roll of respondent no. 2 on 30-6-2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 28-6-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673).** Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos.8446-8447 of 2022** has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:-

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
>
> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant.

There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.

4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.

4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:-

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:-

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by

a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor,

if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that her services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim herself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of her salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has herself conceded that she was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No. 3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. : 56/2024 Date of Institution : 06-11-2024 Date of Decision : 19-5-2026

Shri Rajender Singh s/o Shri Rattan Lal, r/o Village Matyara, P.O. Narola, Tehsil Baldwara, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2 : Sh. Jatinder Rana, 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 termination of services of Shri Rajender Singh s/o Shri Rattan Lal, r/o Village Matyara, P.O. Narola, Tehsil Baldwara, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing

Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview on June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Sub Division Baldwara and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Baldwara on 20-6-2019 and when petitioner reported for duty he was provided duty as Chowkidar *w.e.f.* 20-6-2019 at LWSS Luharda Pargi and he continuously worked till 31-3-2023. It is alleged that on 30-6-2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Baldwara without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs. 3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 20-6-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3 500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union (Regd. No.640) *vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of

Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 20-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 196 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 20-6-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Chowkidar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no

concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the

sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Rajender Singh in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no. 2 Ext. PW1/C and copy of rejoinder Ext. PW1/D. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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
Relief.	: Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No.1 and 2

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to his appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023. The petitioner has deposed that his services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in his cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. He has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. He has admitted that post on which he was allegedly appointed was not advertised neither any written test was conducted though he has mentioned that interview was conducted however he is ignorant of the fact whether any result was declared. According to him he was informed about the selection by way of telephonic communication only. He has admitted that on appointment in government job an appointment letter is issued however he has admitted that no such appointment letter was received by him. He has admitted that his salary was paid in his bank account by respondent no. 2. He has shown his ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that he had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that he was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that his services were illegally enrolled in the roll of respondent no. 2 on 30-6-2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 28-6-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673).** Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos.8446-8447 of 2022** has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:-

4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.

4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.

4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.

4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:-

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:-

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in

the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action;

who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that his services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim himself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of his salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has himself conceded that he was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022

leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No.3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. :57/2024 Date of Institution :06-11-2024 Date of Decision :19-5-2026

Shri Jai Paul s/o Shri Gian Chand, r/o Village Gamdhoul, P.O. Brang, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu NIwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Jai Paul S/O Shri Gian Chand, R/O Village Ghamdhoul, P.O. Brang, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview on June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Sub Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 10-6-2019 and when petitioner reported for duty he was provided duty as Chowkidar *w.e.f.* 10-6-2019 at LWSS Sarkaghat Rissa and he continuously worked till 31-3-2023. It is alleged that on 30-6-2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 10-6-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute

under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 10-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 205 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 10-6-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as

well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Chowkidar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023.It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Jai Paul in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no. 2 Ext. PW1/C and copy of rejoinder Ext. PW1/D. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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
Relief.	: Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No.1 and 2

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to his appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023. The petitioner has deposed that his services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in his cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. He has also

admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. He has admitted that post on which he was allegedly appointed was not advertised neither any written test was conducted though he has mentioned that interview was conducted however he is ignorant of the fact whether any result was declared. According to him he was informed about the selection by way of telephonic communication only. He has admitted that on appointment in government job an appointment letter is issued however he has admitted that no such appointment letter was received by him. He has admitted that his salary was paid in his bank account by respondent no. 2. He has shown his ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that he had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that he was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that his services were illegally enrolled in the roll of respondent no. 2 30-6-2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 10-6-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673).** Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was

carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos.8446-8447 of 2022** has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:—

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
>
> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.
>
> 4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.
>
> 4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:-
>
> A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of

the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:—

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10,

prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that his services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim himself to be the workman of

respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of his salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has himself conceded that he was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No.3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. : 58/2024 Date of Institution : 06-11-2024 Date of Decision : 19-5-2026

Shri Manoj Kumar s/o Shri Krishan Chand, r/o Village Bahlra Chhek, P.O. Masern, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)
2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Manoj Kumar s/o Shri Krishan Chand, r/o Village Bahlra Chhek, P.O. Masern, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview on June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 10-6-2019 and when petitioner reported for duty he was provided duty as Beldar *w.e.f.* 25-11-2019 at LWSS Sarkaghat and he continuously worked till 31-3-2023. It is alleged that on 30-6-2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs. 3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 10-6-2019 to 31-3-2023. It is

asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs. 3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 10-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 205 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 25-11-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till

31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14, 16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to

not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Manoj Kumar in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no. 2 Ext. PW1/C and copy of rejoinder Ext. PW1/D. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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
Relief	: Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 and 2

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to his appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023. The petitioner has deposed that his services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in his cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. He has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. He has admitted that post on which he was allegedly appointed was not advertised neither any written test was conducted though he has mentioned that interview was conducted however he is ignorant of the fact whether any result was declared. According to him he was informed about the selection by way of telephonic communication only. He has admitted that on appointment in government job an appointment letter is issued however he has admitted that no such appointment letter was received by him. He has admitted that his salary was paid in his bank account by respondent no. 2. He has shown his ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that he had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that he was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that his services were illegally enrolled in the roll of respondent no. 2 30-6-2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 10-6-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR**

337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673). Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos. 8446-8447 of 2022** has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:—

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
>
> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.
>
> 4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.

4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:—

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:—

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do

so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification

under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a

serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that his services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim himself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of his salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has himself conceded that he was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No.3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. : 59/2024 Date of Institution : 06-11-2024 Date of Decision : 19-5-2026

Smt. Babli Devi w/o Shri Parkash Chand, r/o Village Patti, P.O. Rissa, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu NIwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2 : Sh. Jatinder Rana, 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 termination of services of Smt. Babli Devi w/o Shri Parkash Chand, r/o Village Patti, P.O. Rissa, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then she enquired about the process of appointment thereafter the petitioner attended interview on September, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Sub Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 19-9-2019 and when petitioner reported for duty she was provided duty as Beldar *w.e.f.* 19-9-2019 at LWSS Sarkaghat (Rissa) and she

continuously worked till 31-3-2023. It is alleged that on 30-9-2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without written consent of the petitioner. It is submitted that from the date of petitioner's engagement she performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed her duties along-with regular employees of the department. It is asserted that the during the period of her service the work and conduct of the petitioner was satisfactory and she had never given any chance for complaint to the department officials and her regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 19-9-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked her daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed her duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before her termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 19-9-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of her termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 104 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed her duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of

regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 19-9-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during her services that she had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14, 16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of her termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at her old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as she supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as she was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field

workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as she (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However she was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and she worked as a beldar under that agreement until the contract expired as part time worker. Her posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such her attendance was not required to be recorded in the regular muster roll maintained by the department. The record of her work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without her consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. Her claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in her case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of her engagement however her relationship if any was

with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Smt. Babli Devi in order to prove her case examined herself as PW1 by way of affidavit Ext. PW1/A. She has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no.1 Ext. PW1/C, copy of reply filed by respondent no. 2 Ext. PW1/D and copy of rejoinder Ext. PW1/E. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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

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

REASONS FOR FINDINGS

Issue No.1

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to her appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023. The petitioner has deposed that her services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in her cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. She has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. She has admitted that post on which she was allegedly appointed was not advertised neither any written test was conducted though she has mentioned that interview was conducted however she is ignorant of the fact whether any result was declared. According to him she was informed about the selection by way of telephonic communication only. She has admitted that on appointment in government job an appointment letter is issued however she has admitted that no such appointment letter was received by him. She has admitted that her salary was paid in her bank account by respondent no. 2. She has shown her ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that she had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that she was appointed by way of interview by respondent no.1. She also alleged the vacancies were notified and circulated in the

department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that her services were illegally enrolled in the roll of respondent no. 2 on 30-9-2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 15-7-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673).** Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos. 8446-8447 of 2022** has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:—

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
>
> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.

4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.

4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:—

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:—

"125. The upshot of the above discussion is outlined thus:—

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:—

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into

consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the

ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that her services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim herself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of her salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has herself conceded that she was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No.3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. : 60/2024 Date of Institution : 06-11-2024 Date of Decision : 19-5-2026

Shri Om Prakash s/o Shri Baldev Raj, r/o Village Nawami, P.O. Triphalghat, Tehsil Baldwara, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu NIwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

For the petitioner	:	Sh. N.L. Kaundal, Ld. AR
	:	Sh. Vijay Kaundal, Ld. Adv.
For the respondent No.1	:	Sh. B.C. Katoch, Ld. Dy. D.A.
For the respondent No. 2	:	Sh. Jatinder Rana, 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 termination of services of Shri Om Prakash s/o Shri Baldev Raj, r/o Village Nawami, P.O. Triphalghat, Tehsil Baldwara, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that the Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the month of April, 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview in the month of June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Baldwara and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Baldwara on 19-6-2019 and when petitioner reported for duty he was provided duty as beldar *w.e.f.* 19-6-2019 at LWSS Triphalghat and he continuously worked till 31-3-2023. It is alleged that the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Badharwar without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 19-6-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 19-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner

was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 196 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 19-6-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to the demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14, 16 and 21 of the Constitution of India. It is asserted that the petitioner was not a gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine and respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that

petitioner had attended the work after 31-12-2023 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is denied that respondent no.1 had verbally terminated the service of petitioner on 1-4-2023 without complying with the provisions of Industrial Disputes Act. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily waged by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination was ever issued by

the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

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

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

1. Whether the termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

6. Petitioner Shri Jagdish Chand in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by the respondent no.1 Ext. PW1/C, copy of reply filed by respondent no. 2 Ext. PW1/D and copy of rejoinder Ext. PW1/E. Petitioner has also examined Shri Virender Kumar s/o Late Shri Bali Ram, r/o Village Kotrohan, P.O. Kot, Tehsil Baldwara, District Mandi, H.P. as PW2 by way of examination-in-chief wherein he has stated that he is posted as fitter since 2006 under Samela Section Baldwara and still working in the same place. He stated that Shri petitioner was posted as beldar with him. Attendance register from January, 2023 to March, 2023 bears his signatures and he had verified the attendance of petitioner and sometimes it was done by Supervisor and JE which are exhibited as Ext. PW2/A to Ext. PW2/C. Miss Riya Dhiman has examined by the petitioner as PW3 wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW3/A.

7. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

8. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for respondent no.1 and learned counsel for respondent no. 2 at length and records perused.

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

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

REASONS FOR FINDINGS

Issue No.1

10. The petitioner has deposed in his affidavit that Himachal Pradesh Jal Shakti Vibhag Shimla had issued a notification to fill up the vacant posts of pump operators, helpers and other categories after obtaining necessary documents. The petitioner was made aware of this notification by way of regular employees of the department of respondent no.1 and he contacted the superintendent of the office of Jal Shakti Division Sarkaghat. He was also informed that interview was being conducted for the above posts. He attended the interview conducted by Executive Engineer, Jal Shakti Division Sarkaghat as well as Jal Shakti Division Baldwara and also submitted his essential documents to respondent no.1. He further states that after interview he was verbally asked to report for duties in the office of Assistant Engineer, Jal Shakti Sub Division Baldwara on 19-6-2019 at LWSS Triphalghat. He alleged that he continuously worked upto 31-3-2023. On 30-6-2019 he was illegally enrolled under the rolls of M/s Shimla Cleanways (Contractor) by the Assistant Engineer. His work was verified by Junior Engineer and regular fitter of the department. He was paid through Shimla Cleanways upto 31-12-2022 even though he performed his service till 31-3-2023. He has alleged that his services were illegally terminated *w.e.f.* 1-4-2023. He has further alleged that since more than 20 workmen were engaged through outsource agency M/s Shimla Cleanways (respondent no. 2), Contract Labour (Regulation and Abolition) Act, 1970 is applicable. In these circumstances respondents had mandatorily not complied with essential registration under Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970. In absence of the same, so called outsource system was sham and camouflage. He submitted that work performed by the petitioner was perennial in nature which could be done by regular workers working whole time. It is also submitted that outsource system was merely sham and camouflage which required contract labour to be treated as employee of principal employer. He has alleged that the act and conduct of the respondent no.1 to obtain service of workman through contractor was merely to deny the benefit and status of regular employees to the workmen which amounts to unfair labour practice under the Industrial Disputes Act, 1947.

11. Petitioner has examined PW2 Shri Virender Kumar who deposed on oath that he had worked as fitter under the respondent no.1 at Samela Section Baldwara since 2006. According to him petitioner used to work with him and his (petitioner's) attendance is Ext. PW2/A to Ext. PW2/C for January, February and March, 2023 which bears his signatures. He used to verify the attendance and sometimes it was also verified by the Junior Engineer or Supervisor.

12. RW1 Shri Vivek Hazri has stated on oath that petitioner was employee of the respondent no. 2 and respondent no.1 had no concern with him. He has denied that petitioner was interviewed and appointed by respondent no.1. He has asserted that respondent had executed a contract agreement with respondent no. 2 as an outsource agency which agreement had expired on 31-12-2022. The petitioner had worked only upto 31-12-2022 as an outsource employee of outsource agency. According to him petitioner is not entitled for benefits beyond 31-12-2022.

13. RW2 Shri Bhupesh Janartha, Contractor, M/s Shimla Cleanways has also deposed that petitioner was engaged purely on outsource basis through his company. The petitioner was aware that his engagement was temporary and co-terminous with contract. The expiry of contract was on 31-12-2022. The services of outsource employees automatically ended.

14. The petitioner has however alleged that his appointment was actually done by respondent no.1 by way of interview pursuant to notification regarding various works. No such notification or record of interview has been produced in the case file. The petitioner admitted that every government post is advertised and the process is followed for recruitment. He admitted that he has not produced record allegedly submitted by him to the department neither he could produce the appointment letter issued by the respondent no.1.

15. Ext. RW1/B is job letter contract provided by respondent no.1 to respondent no. 2 initially this contract was for a period of one year. Ext. RW1/C is the agreement to provide manpower. Mark R2/A is the certificate of work duly completed by respondent no. 2 of the awarded amount upto 31-12-2022 and balance of security.

16. Petitioner is alleging that he had worked upto 31-3-2023 with respondent no.1. This allegation is supported and corroborated by deposition of PW2 Shri Virender Kumar who has certified this fact by Ext. PW2/A to Ext. PW2/C which show that petitioner has worked with respondent no.1 upto 31-3-2023. This witness has admitted that this register entries were not verified by supervisor and not signed by any officer. This admission is not enough to prove that any false document has been prepared and produced by this witness. No suggestion was made to him that he was not an employee of respondent no.1 and also that he was not duly authorized to verify the attendance register of workman. He has completely shown ignorance to the fact that bill was claimed on the basis of muster roll prepared by M/s Shimla Cleanways. Pertinent to observe that no such muster rolls prepared by M/s Shimla Cleanways has been produced by respondents with regard to work done by the petitioner after 31-12-2022.

17. RW2 Shri Bhupesh Janartha the contractor of M/s Shimla Cleanways has very clearly stated that after expiry of contract agreement which took place on 31-12-2022 the labour was not employed by them. RW1 Shri Vivek Hazri has expressed ignorance to the document Ext. PW2/A. He insists that petitioner's contract ended on 31-12-2022. Significantly, he has mentioned that from 1-1-2023 to 31-3-2023 only regular employees of the department had carried out the work. No documentary evidence of the work done by regular employees or their attendance corresponding to the dates on which attendance of petitioner is marked has been produced on record. Respondents have also not produced any record of attendance shown to be verified by JE or supervisor or by the contractor. The above evidence clearly shows that work of labour was verified by PW2. Once the respondent no.1 has failed to produce attendance record of regular workers from 1-1-2023 to

31-3-2023 the contention of the petitioner finds weight. It is established that upto 31-12-2022 the petitioner worked on the rolls of respondent no. 2 and thereafter upto 31-3-2023 there was no contract existing between the respondent no.1 and respondent no. 2.

18. RW1 Shri Vivek Hazri has admitted the signatures of Assistant Engineer on Ext. R1 where the petitioner is shown to have worked upto 365 days till 31-12-2022. This document along-with Ext PW2/A to Ext. PW2/C clearly depict that the petitioner was continuously working with respondent no.1 for 240 days prior to 31-3-2023. It is the contention raised by respondents no.1 and 2 that petitioner was employed only on part-time basis for six hours per day. The mandays chart Ext. R1 produced on record does not mention this fact. The definition of workmen under Section 2(s) of the Industrial Disputes Act, 1947 as follows:—

"2(s)["workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person- *[Substituted by Act 46 of 1982, Section 2, for Cl. (s) (w.e.f. 21-8-1984).]*

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison, or

(iii) who is employed mainly in a managerial or administrative capacity, or

(iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]"

The above definition clearly does not make distinction between full and part-time worker.

19. The petitioner however has not been able to prove that petitioner was inducted on a sanctioned post by way of direct interview by respondent no.1. The work contract between respondent no.1 and respondent no. 2 expired on 31-12-2022. Despite this respondent no.1 had continued to avail the services of the petitioner after expiry of the period of contract *i.e.* 31-12-2022. At the time of alleged termination, petitioner could not be termed as contract labour, petitioner has completed continuous service of 240 days preceding his termination therefore respondent no.1 was under an obligation to comply with the provisions of the Industrial Disputes Act, 1947. It is established that termination of the services of petitioner by the respondent no.1 *w.e.f.* 1-4-2023 was illegal and unjustified and in violation of the provisions of the Industrial Disputes Act, 1947. Accordingly issue no.1 is decided in the favour of petitioner.

Issue No. 2

20. It is proved that the termination of petitioner was under respondent no.1 and petitioner himself deposed that M/s Shimla Cleanways had not terminated his services. He has denied that after 31-12-2022 there is no liability of M/s Shimla Cleanways to pay his salary but it is a proved fact that after 31-12-2022 there was no existing contract of supply of labour to respondent no.1 by respondent no. 2. In case there was any violation of the provisions pertaining to Section 7 and Section 12 Clause (1) of Contract Labour (Regulations and Abolition Act), 1970 the remedy lies

within the Act specifically the provisions of penalty for the above violations. The continuous employment of petitioner after expiry of contract agreement and non payment of salary of the said period along-with termination of his services without compliance under Section 25 Clause F also amounted to unfair labour practice under Schedule Vth of the Industrial Disputes Act, 1947. In the light of above established facts and circumstances, the petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs.50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and grant him seniority and continuity of service from 1-1-2023 onwards.

Issue No.3

21. The onus of proving this issue was on the respondents. The maintainability of the claim was primarily challenged on the ground that there was no direct relationship of master and servant between respondent no.1 and the petitioner. It was also submitted that petitioner has worked only upto 31-12-2022 *i.e.* during subsistence of contract of supply of labour between respondent no.1 and respondent no. 2. It however appeared from the evidence that the petitioner has worked with respondent no.1 beyond the above period and his services were terminated without compliance of Section 25 Clause F of the Industrial Disputes Act, 1947. Hence the petition is maintainable and issue no.3 is decided in the favour of petitioner and against the respondents.

RELIEF

22. In view of my discussion on the issues no. 1 to 3 above, the claim petition succeeds and is partly allowed. The petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs.50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and grant him seniority and continuity of service from 1-1-2023 onwards. Parties are left to bear their costs.

23. 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 19th day of May, 2026.

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

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

Ref. No. : 61/2024 Date of Institution : 06-11-2024 Date of Decision : 19-5-2026

Shri Praveen Kumar s/o Shri Ranjeet Singh, r/o Village Rachhot, P.O. Ropari, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, SahibuNiwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Parveen Kumar s/s ShriRanjeet Singh, r/o Village Rachhot, P.O. Ropari, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview on September, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 19-9-2019 and when petitioner reported for duty he was provided duty as Beldar *w.e.f.* 19-9-2019 at LWSS Sarkaghat and he continuously worked till 31-3-2023. It is alleged that on 30-9-2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed

their duties under control and supervision of department *w.e.f.* 19-9-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 19-9-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 104 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 19-9-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not

intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments

uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Parveen Kumar in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no. 2 Ext. PW1/C and copy of rejoinder Ext. PW1/D. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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
Relief.	: Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No.1 and 2

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to his appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023.The petitioner has deposed that his services were terminated by respondent no.1.Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in his cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. He has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. He has admitted that post on which he was allegedly appointed was not advertised neither any written test was conducted though he has mentioned that interview was conducted however he is ignorant of the fact whether any result was declared. According to him he was informed about the selection by way of telephonic communication only. He has admitted that on appointment in government job an appointment letter is issued however he has admitted that no such appointment letter was received by him. He has admitted that his salary was paid in his bank account by respondent no. 2. He has shown his ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that he had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that he was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that his services were illegally enrolled in the roll of respondent no. 2 on 30-9-2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 15-7-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR**

337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673). Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penaltyprovided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos. 8446-8447 of 2022** has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:—

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
>
> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.
>
> 4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.

4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors.Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:-

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:—

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:
(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do

so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification

under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a

serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that his services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim himself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of his salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has himself conceded that he was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No.3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. : 62/2024 Date of Institution : 06-11-2024 Date of Decision :19-5-2026

Shri Besari Kumar s/o Shri Amar Singh, r/o VPO Rakhoh, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner* .

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Besari Kumar s/o Shri Amar Singh, r/o V.P.O. Rakhoh, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that the Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the month of April, 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview in the month of February, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Baldwara and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 8-3-2019 and when petitioner reported for duty he was provided duty as beldar *w.e.f.* 8-3-2019 at LWSS Sarkaghat (Tatahar Jaman) and

he continuously worked till 31-3-2023. It is alleged that the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Baldwara without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 8-3-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 8.3.2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 299 days in the year 2019, 366 days in 2020, 365 days in 2021,365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of

regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 20-1-2020 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not a gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine and respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2023 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is denied that respondent no.1 had verbally terminated the service of petitioner on 1-4-2023 without complying with the provisions of Industrial Disputes Act. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions

of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily waged by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had releasd full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract

being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

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

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

1. Whether the termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged?

..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

6. Petitioner Shri Besari Kumar in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by the respondent no. 2 Ext. PW1/C and and copy of rejoinder Ext. PW1/D. Petitioner has also examined Shri Ranvir Singh s/o Late Shri Devi Singh r/o Village Pronouh, P.O. Ghar, Tehsil Sarkaghat, District Mandi, H.P. as PW2 by way of examination-in-chief wherein he has stated that he was posted as fitter on regular basis from 1992 to 31-3-2024 and his services were superannuated after attaining the age of 58 years. He stated that Shri Besari Kumar was posted as beldar with him. Attendance register from January, 2023 to March, 2023 bears his signatures in red circle which are exhibited as Ext. PW2/A to Ext. PW2/C . Miss Riya Dhiman has examined by the petitioner as PW3 wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW3/A.

7. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

8. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for respondent no.1 and learned counsel for respondent no. 2 at length and records perused.

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

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

REASONS FOR FINDINGS

Issue No.1

10. The petitioner has deposed in his affidavit that Himachal Pradesh Jal Shakti Vibhag Shimla had issued a notification to fill up the vacant posts of pump operators, helpers and other categories after obtaining necessary documents. The petitioner was made aware of this notification by way of regular employees of the department of respondent no.1 and he contacted the superintendent of the office of Jal Shakti Division Sarkaghat. He was also informed that interview was being conducted for the above posts. He attended the interview conducted by Executive Engineer, Jal Shakti Sub Division Sarkaghat and also submitted his essential documents to respondent no.1. He further states that after interview he was verbally asked to report for duties in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 8-3-2019 at LWSS Sarkaghat (Tatahar Jaman). He alleged that he continuously worked upto 31-3-2023. After 31-3-2019 he was illegally enrolled under the rolls of M/s Shimla Cleanways (Contractor) by the Assistant Engineer. His work was verified by Junior Engineer and regular fitter of the department. He was paid through Shimla Cleanways upto 31-12-2022 even though he performed his service till 31-3-2023. He has alleged that his services were illegally terminated *w.e.f.* 1-4-2023. He has further alleged that since more than 20 workmen were engaged through outsource agency M/s Shimla Cleanways (respondent no. 2), Contract Labour (Regulation and Abolition) Act, 1970 is applicable. In these circumstances respondents had mandatorily not complied with essential registration under Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970. In absence of the same, so called outsource system was sham and camouflage. He submitted that work performed by the petitioner was perennial in nature which could be done by regular workers working whole time. It is also submitted that outsource system was merely sham and camouflage which required contract labour to be treated as employee of principal employer. He has alleged that the act and conduct of the respondent no.1 to obtain service of workman through contractor was merely to deny the benefit and status of regular employees to the workmen which amounts to unfair labour practice under the Industrial Disputes Act, 1947.

11. Petitioner has examined PW2 Shri Ranvir Singh who deposed on oath that he had worked as fitter under the respondent no.1 from 1992 til 31-3-2024 on regular basis and his services were superannuated after attaining the age of 58 years. According to him petitioner used to work with him as beldar and his (petitioner's) attendance is Ext. PW2/A to Ext. PW2/C for January, February and March, 2023 which bears his signatures in red circle.

12. RW1 Shri Vivek Hazri has stated on oath that petitioner was employee of the respondent no. 2 and respondent no.1 had no concern with him. He has denied that petitioner was interviewed and appointed by respondent no.1. He has asserted that respondent had executed a contract agreement with respondent no. 2 as an outsource agency which agreement had expired on

31-12-2022. The petitioner had worked only upto 31-12-2022 as an outsource employee of outsource agency. According to him petitioner is not entitled for benefits beyond 31-12-2022.

13. RW2 Shri Bhupesh Janartha, Contractor, M/s Shimla Cleanways has also deposed that petitioner was engaged purely on outsource basis through his company. The petitioner was aware that his engagement was temporary and co-terminous with contract. The expiry of contract was on 31-12-2022. The services of outsource employees automatically ended.

14. The petitioner has however alleged that his appointment was actually done by respondent no.1 by way of interview pursuant to notification regarding various works. No such notification or record of interview has been produced in the case file. The petitioner admitted that every government post is advertised and the process is followed for recruitment. He admitted that he has not produced record allegedly submitted by him to the department neither he could produce the appointment letter issued by the respondent no.1.

15. Ext. RW1/B is job letter contract provided by respondent no.1 to respondent no. 2 initially this contract was for a period of one year. Ext. RW1/C is the agreement to provide manpower. Mark R2/A is the certificate of work duly completed by respondent no. 2 of the awarded amount upto 31-12-2022 and balance of security.

16. Petitioner is alleging that he had worked upto 31-3-2023 with respondent no.1. This allegation is supported and corroborated by deposition of PW2 Shri Ranvir Singh who has certified this fact by Ext. PW2/A to Ext. PW2/C which show that petitioner has worked with respondent no.1 upto 31-3-2023. He has admitted that only on directions of his superior officers he verifies the attendance of labour who come for work. He has admitted that he did not verify the attendance before January, 2023. The attendance is personally signed by him. He denied that from January, 2023 to March, 2023 he was on leave. He denied that he marked the attendance of petitioner on holidays. He denied that he had wrongly verified the attendance of petitioner. No suggestion was made to him that he was not an employee of respondent no.1 and also that he was not duly authorized to verify the attendance register of workman. He has completely shown ignorance to the fact that bill was claimed on the basis of muster roll prepared by M/s Shimla Cleanways. Pertinent to observe that no such muster rolls prepared by M/s Shimla Cleanways has been produced by respondents with regard to work done by the petitioner after 31-12-2022.

17. RW2 Shri Bhupesh Janartha the contractor of M/s Shimla Cleanways has very clearly stated that after expiry of contract agreement which took place on 31-12-2022 the labour was not employed by them. RW1 Shri Vivek Hazri has expressed ignorance to the document Ext. PW2/A. He insists that petitioner's contract ended on 31-12-2022. Significantly, he has mentioned that from 1-1-2023 to 31-3-2023 only regular employees of the department had carried out the work. No documentary evidence of the work done by regular employees or their attendance corresponding to the dates on which attendance of petitioner is marked has been produced on record. Respondents have also not produced any other record of attendance shown to be verified by JE or supervisor or by the contractor. The above evidence clearly shows that work of labour was verified by PW2 Ranvir Singh. Once the respondent no.1 has failed to produce attendance record of regular workers from 1-1-2023 to 31-3-2023 the contention of the petitioner finds weight. It is established that upto 31-12-2022 the petitioner worked on the rolls of respondent no. 2 and thereafter upto 31-3-2023 there was no contract existing between the respondent no.1 and respondent no. 2.

18. RW1 Shri Vivek Hazri has admitted the signatures of Assistant Engineer on Ext. R1 where the petitioner is shown to have worked upto 365 days till 31-12-2022. This document along-with Ext PW2/A to Ext. PW2/C clearly depict that the petitioner was continuously working with respondent no.1 for 240 days prior to 31-3-2023. It is the contention raised by respondents no.1 and

2 that petitioner was employed only on part-time basis for six hours per day. The mandays chart Ext. R1 produced on record does not mention this fact. The definition of workmen under Section 2(s) of the Industrial Disputes Act, 1947 as follows:—

> "2(s)["workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person- *[Substituted by Act 46 of 1982, Section 2, for Cl. (s) (w.e.f. 21-8-1984).]*
>
> (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
>
> (ii) who is employed in the police service or as an officer or other employee of a prison, or
>
> (iii) who is employed mainly in a managerial or administrative capacity, or
>
> (iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]"

The above definition clearly does not make distinction between full and part-time worker.

19. The petitioner however has not been able to prove that petitioner was inducted on a sanctioned post by way of direct interview by respondent no.1. The work contract between respondent no.1 and respondent no. 2 expired on 31-12-2022. Despite this respondent no.1 had continued to avail the services of the petitioner after expiry of the period of contract *i.e.* 31-12-2022. At the time of alleged termination, petitioner could not be termed as contract labour, petitioner has completed continuous service of 240 days preceding his termination therefore respondent no.1 was under an obligation to comply with the provisions of the Industrial Disputes Act, 1947. It is established that termination of the services of petitioner by the respondent no.1 *w.e.f.* 1-4-2023 was illegal and unjustified and in violation of the provisions of the Industrial Disputes Act, 1947. Accordingly issue no.1 is decided in the favour of petitioner.

Issue No. 2

20. It is proved that the termination of petitioner was under respondent no.1 and petitioner himself deposed that M/s Shimla Cleanways had not terminated his services. He has denied that after 31-12-2022 there is no liability of M/s Shimla Cleanways to pay his salary but it is a proved fact that after 31-12-2022 there was no existing contract of supply of labour to respondent no.1 by respondent no. 2. In case there was any violation of the provisions pertaining to Section 7 and Section 12 Clause (1) of Contract Labour (Regulations and Abolition Act), 1970 the remedy lies within the Act specifically the provisions of penalty for the above violations. The continuous employment of petitioner after expiry of contract agreement and non payment of salary of the said period along-with termination of his services without compliance under Section 25 Clause F also amounted to unfair labour practice under Schedule Vth of the Industrial Disputes Act, 1947. In the light of above established facts and circumstances, the petitioner is entitled to payment of three

months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs.50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and grant him seniority and continuity of service from 1-1-2023 onwards.

Issue No. 3

21. The onus of proving this issue was on the respondents. The maintainability of the claim was primarily challenged on the ground that there was no direct relationship of master and servant between respondent no.1 and the petitioner. It was also submitted that petitioner has worked only upto 31-12-2022 *i.e.* during subsistence of contract of supply of labour between respondent no.1 and respondent no. 2. It however appeared from the evidence that the petitioner has worked with respondent no.1 beyond the above period and his services were terminated without compliance of Section 25 Clause F of the Industrial Disputes Act, 1947. Hence the petition is maintainable and issue no.3 is decided in the favour of petitioner and against the respondents.

RELIEF

22. In view of my discussion on the issues no. 1 to 3 above, the claim petition succeeds and is partly allowed. The petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs. 50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and grant him seniority and continuity of service from 1-1-2023 onwards. Parties are left to bear their costs.

23. 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 19th day of May, 2026.

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

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

Ref. No. : 63/2024 Date of Institution : 06-11-2024 Date of Decision :19-5-2026

Shri Ramesh Chand s/o Shri Sunder Singh, r/o Village Morla-II, P.O. Brang, Tehsil Dharampur, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Ramesh Chand s/o Shri Sunder Singh, r/o Village Morla-II, P.O. Brang, Tehsil Dharampur, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview on November, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 25-11-2019 and when petitioner reported for duty he was provided duty as Beldar *w.e.f.* 25-11-2019 at LWSS Bid Patta Samsoh (2nd Stage Brang) and he continuously worked till 31-3-2023. It is alleged that on 30.11.2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs. 3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 25-11-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month

through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 25-11-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 37 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 25-11-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by

the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023.It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the

services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Ramesh Chand in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no. 2 Ext. PW1/C and copy of rejoinder Ext. PW1/D. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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
Relief.	: Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No.1 and 2

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to his appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining

necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023. The petitioner has deposed that his services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in his cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. He has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. He has admitted that post on which he was allegedly appointed was not advertised neither any written test was conducted though he has mentioned that interview was conducted however he is ignorant of the fact whether any result was declared. According to him he was informed about the selection by way of telephonic communication only. He has admitted that on appointment in government job an appointment letter is issued however he has admitted that no such appointment letter was received by him. He has admitted that his salary was paid in his bank account by respondent no. 2. He has shown his ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that he had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that he was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that his services were illegally enrolled in the roll of respondent no. 2 on 30.11.2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 25-11-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR 1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673).** Learned Authorized Representative has

vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos. 8446-8447 of 2022** has held in paras no. 4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:—

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
>
> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.
>
> 4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.
>
> 4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor,

cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:—

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:—

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;
(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:—

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal

or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that his services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim himself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of his salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has himself conceded that he was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No. 3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. : 64/2024 Date of Institution : 06-11-2024 Date of Decision : 19-5-2026

Shri Hushan Kumar s/o Shri Himmat Ram, r/o Village Samsoh, P.O. Gahar, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2 : Sh. Jatinder Rana, 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 termination of services of Shri Hushan Kumar s/o Shri Himmat Ram, r/o Village Samsoh, P.O. Gahar, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview on June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 28-6-2019 and when petitioner reported for duty he was provided duty as Chowkidar *w.e.f.* 28-6-2019 at LWSS Bid Patta Samsoh and he

continuously worked till 31-3-2023. It is alleged that on 30-6-2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs. 3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 28-6-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 28-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 187 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of

regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 28-6-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14, 16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Chowkidar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023.It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs. 3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field

workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was

with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Hushan Kumar in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no.1 Ext. PW1/C, copy of reply filed by respondent no. 2 Ext. PW1/D and copy of rejoinder Ext. PW1/E. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark-R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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

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

REASONS FOR FINDINGS

Issues No.1 and 2

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to his appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023 the petitioner has deposed that his services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in his cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. He has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. He has admitted that post on which he was allegedly appointed was not advertised neither any written test was conducted though he has mentioned that interview was conducted however he is ignorant of the fact whether any result was declared. According to him he was informed about the selection by way of telephonic communication only. He has admitted that on appointment in government job an appointment letter is issued however he has admitted that no such appointment letter was received by him. He has admitted that his salary was paid in his bank account by respondent no. 2. He has shown his ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that he had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that he was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the

department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that his services were illegally enrolled in the roll of respondent no. 2 on 30-6-2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 28-6-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR 1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673).** Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos. 8446-8447 of 2022** has held in paras no. 4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:—

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
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> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.

4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.

4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:-

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:—

"125. The upshot of the above discussion is outlined thus:—

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government :

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age

of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the

ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that his services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim himself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of his salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has himself conceded that he was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No.3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. : 65/2024 Date of Institution : 06-11-2024 Date of Decision : 19-5-2026

Shri Jagdish Chand s/o Shri Munshi Ram, r/o Village Samsoh, P.O. Gahar, Tehsil Sarkaghat, District Mandi, H.P. ...*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu NIwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

For the petitioner	: Sh. N.L. Kaundal, Ld. AR : Sh. Vijay Kaundal, Ld. Adv.
For the respondent No.1	: Sh. B.C. Katoch, Ld. Dy. D.A.
For the respondent No. 2	: Sh. Jatinder Rana, 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 termination of services of Shri Jagdish Chand s/o Shri Munshi Ram, r/o Village Samsoh, P.O. Gahar, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that the Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the month of April, 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview in the month of June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Baldwara and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Bhadarwar on 28-6-2019 and when petitioner reported for duty he was provided duty as Chowkidar *w.e.f.* 28-6-2019 at LWSS Bid Patta Samsoh and he continuously worked till 31-3-2023. It is alleged that the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Badherwar without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 28-6-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs. 3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 28-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner

was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 187 days in the year 2019, 366 days in 2020, 365 days in 2021,365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 28-6-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not a gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine and respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and as was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied

that petitioner had attended the work after 31-12-2023 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is denied that respondent no.1 had verbally terminated the service of petitioner on 1-4-2023 without complying with the provisions of Industrial Disputes Act. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily waged by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had releasd full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination was ever issued by

the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

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

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

1. Whether the termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

6. Petitioner Shri Jagdish Chand in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by the respondent no.1 Ext. PW1/C, copy of reply filed by respondent no. 2 Ext. PW1/D and copy of rejoinder Ext. PW1/E. Petitioner has also examined Shri Kuldeep Singh s/o Shri Mant Ram, r/o Village Badasamahl, P.O. Ghar, Tehsil Sarkaghat, District Mandi, H.P. as PW2 by way of examination-in-chief wherein he has stated that he was posted as fitter since 1997 till 30.4.2023 on regular basis and his services were retired after attaining the age of 58 years by the department. He stated that Shri Jagdish Chand was posted as beldar with him. Attendance register from January, 2023 to March, 2023 bears his signatures in red circle which are exhibited as Ext. PW2/A to Ext. PW2/C. Miss Riya Dhiman has examined by the petitioner as PW3 wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW3/A.

7. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

8. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for respondent no.1 and learned counsel for respondent no. 2 at length and records perused.

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

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

REASONS FOR FINDINGS

Issue No.1

10. The petitioner has deposed in his affidavit that Himachal Pradesh Jal Shakti Vibhag Shimla had issued a notification to fill up the vacant posts of pump operators, helpers and other categories after obtaining necessary documents. The petitioner was made aware of this notification by way of regular employees of the department of respondent no.1 and he contacted the superintendent of the office of Jal Shakti Division Sarkaghat. He was also informed that interview was being conducted for the above posts. He attended the interview conducted by Executive Engineer, Jal Shakti Division Sarkaghat as well as Jal Shakti Division Bhaderwar and also submitted his essential documents to respondent no.1. He further states that after interview he was verbally asked to report for duties in the office of Assistant Engineer, Jal Shakti Sub Division Bhaderwar on 28-6-2019 at LWSS Bid Patta Samsoh. He alleged that he continuously worked upto 31-3-2023. On 30-6-2019 he was illegally enrolled under the rolls of M/s Shimla Cleanways (Contractor) by the Assistant Engineer. His work was verified by Junior Engineer and regular fitter of the department. He was paid through Shimla Cleanways upto 31-12-2022 even though he performed his service till 31-3-2023. He has alleged that his services were illegally terminated *w.e.f.* 1-4-2023. He has further alleged that since more than 20 workmen were engaged through outsource agency M/s Shimla Cleanways (respondent no. 2), Contract Labour (Regulation and Abolition) Act, 1970 is applicable. In these circumstances respondents had mandatorily not complied with essential registration under Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970. In absence of the same, so called outsource system was sham and camouflage. He submitted that work performed by the petitioner was perennial in nature which could be done by regular workers working whole time. It is also submitted that outsource system was merely sham and camouflage which required contract labour to be treated as employee of principal employer. He has alleged that the act and conduct of the respondent no.1 to obtain service of workman through contractor was merely to deny the benefit and status of regular employees to the workmen which amounts to unfair labour practice under the Industrial Disputes Act, 1947.

11. Petitioner has examined PW2 Shri Kuldeep Singh who deposed on oath that he had worked as fitter under the respondent no.1 and his services were superannuated after attaining the age of 58 years. According to him petitioner used to work with him and his (petitioner's) attendance is Ext. PW2/A to Ext. PW2/C for January, February and March, 2023 which bears his signatures in red circle. He has denied that from January, 2023 to April, 2023 he availed 50-60 earned leaves and that petitioner had also availed many leaves. He denied that petitioner did not work from January, 2023 to March, 2023 and that he had wrongly verified the attendance.

12. RW1 Shri Vivek Hazri has stated on oath that petitioner was employee of the respondent no. 2 and respondent no.1 had no concern with him. He has denied that petitioner was interviewed and appointed by respondent no.1. He has asserted that respondent had executed a contract agreement with respondent no. 2 as an outsource agency which agreement had expired on 31-12-2022. The petitioner had worked only upto 31-12-2022 as an outsource employee of outsource agency. According to him petitioner is not entitled for benefits beyond 31-12-2022.

13. RW2 Shri Bhupesh Janartha, Contractor, M/s Shimla Cleanways has also deposed that petitioner was engaged purely on outsource basis through his company. The petitioner was aware that his engagement was temporary and co-terminous with contract. The expiry of contract was on 31-12-2022. The services of outsource employees automatically ended.

14. The petitioner has however alleged that his appointment was actually done by respondent no.1 by way of interview pursuant to notification regarding various works. No such notification or record of interview has been produced in the case file. The petitioner admitted that every government post is advertised and the process is followed for recruitment. He admitted that he has not produced record allegedly submitted by him to the department neither he could produce the appointment letter issued by the respondent no.1.

15. Ext. RW1/B is job letter contract provided by respondent no.1 to respondent no. 2 initially this contract was for a period of one year. Ext. RW1/C is the agreement to provide manpower. Mark R2/A is the certificate of work duly completed by respondent no. 2 of the awarded amount upto 31-12-2022 and balance of security.

16. Petitioner is alleging that he had worked upto 31-3-2023 with respondent no.1. This allegation is supported and corroborated by deposition of PW2 Shri Kuldeep Singh who has certified this fact by Ext. PW2/A to Ext. PW2/C which show that petitioner has worked with respondent no.1 upto 31-3-2023. This witness has denied that he has prepared false record. He is unaware that petitioner had worked through Shimla Cleanways and contract with respondent no. 2 ended on 31-12-2022. No suggestion was made to him that he was not an employee of respondent no.1 and also that he was not duly authorized to verify the attendance register of workman. He has completely shown ignorance to the fact that bill was claimed on the basis of muster roll prepared by M/s Shimla Cleanways. Pertinent to observe that no such muster rolls prepared by M/s Shimla Cleanways has been produced by respondents with regard to work done by the petitioner after 31-12-2022.

17. RW2 Shri Bhupesh Janartha the contractor of M/s Shimla Cleanways has very clearly stated that after expiry of contract agreement which took place on 31-12-2022 the labour was not employed by them. RW1 Shri Vivek Hazri has expressed ignorance to the document Ext. PW2/A. He insists that petitioner's contract ended on 31-12-2022. Significantly, he has mentioned that from 1-1-2023 to 31-3-2023 only regular employees of the department had carried out the work. No documentary evidence of the work done by regular employees or their attendance corresponding to the dates on which attendance of petitioner is marked has been produced on record. Respondents have also not produced any other record of attendance shown to be verified by JE or supervisor or

by the contractor. The above evidence clearly shows that work of labour was verified by PW2 Kuldeep Singh. Once the respondent no.1 has failed to produce attendance record of regular workers from 1-1-2023 to 31-3-2023 the contention of the petitioner finds weight. It is established that upto 31-12-2022 the petitioner worked on the rolls of respondent no. 2 and thereafter upto 31-3-2023 there was no contract existing between the respondent no.1 and respondent no. 2.

18. RW1 Shri Vivek Hazri has admitted the signatures of Assistant Engineer on Ext. R1 where the petitioner is shown to have worked upto 365 days till 31-12-2022. This document along-with Ext PW2/A to Ext. PW2/C clearly depict that the petitioner was continuously working with respondent no.1 for 240 days prior to 31-3-2023. It is the contention raised by respondents no.1 and 2 that petitioner was employed only on part-time basis for six hours per day. The mandays chart Ext. R1 produced on record does not mention this fact. The definition of workmen under Section 2(s) of the Industrial Disputes Act, 1947 as follows:—

"2(s)["workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person- *[Substituted by Act 46 of 1982, Section 2, for Cl. (s) (w.e.f. 21.8.1984).]*

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison, or

(iii) who is employed mainly in a managerial or administrative capacity, or

(iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]"

The above definition clearly does not make distinction between full and part-time worker.

19. The petitioner however has not been able to prove that petitioner was inducted on a sanctioned post by way of direct interview by respondent no.1. The work contract between respondent no.1 and respondent no. 2 expired on 31-12-2022. Despite this respondent no.1 had continued to avail the services of the petitioner after expiry of the period of contract *i.e.* 31-12-2022. At the time of alleged termination, petitioner could not be termed as contract labour, petitioner has completed continuous service of 240 days preceding his termination therefore respondent no.1 was under an obligation to comply with the provisions of the Industrial Disputes Act, 1947. It is established that termination of the services of petitioner by the respondent no.1 *w.e.f.* 1-4-2023 was illegal and unjustified and in violation of the provisions of the Industrial Disputes Act, 1947. Accordingly issue no.1 is decided in the favour of petitioner.

Issue No. 2

20. It is proved that the termination of petitioner was under respondent no.1 and petitioner himself deposed that M/s Shimla Cleanways had not terminated his services. He has denied that after 31-12-2022 there is no liability of M/s Shimla Cleanways to pay his salary but it is a proved fact that after 31-12-2022 there was no existing contract of supply of labour to respondent no.1 by respondent no. 2. In case there was any violation of the provisions pertaining to Section 7 and

Section 12 Clause (1) of Contract Labour (Regulations and Abolition Act), 1970 the remedy lies within the Act specifically the provisions of penalty for the above violations. The continuous employment of petitioner after expiry of contract agreement and non payment of salary of the said period along-with termination of his services without compliance under Section 25 Clause F also amounted to unfair labour practice under Schedule Vth of the Industrial Disputes Act, 1947. In the light of above established facts and circumstances, the petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs.50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as Chowkidar and grant him seniority and continuity of service from 1-1-2023 onwards.

Issue No. 3

21. The onus of proving this issue was on the respondents. The maintainability of the claim was primarily challenged on the ground that there was no direct relationship of master and servant between respondent no.1 and the petitioner. It was also submitted that petitioner has worked only upto 31-12-2022 *i.e.* during subsistence of contract of supply of labour between respondent no.1 and respondent no. 2. It however appeared from the evidence that the petitioner has worked with respondent no.1 beyond the above period and his services were terminated without compliance of Section 25 Clause F of the Industrial Disputes Act, 1947. Hence the petition is maintainable and issue no. 3 is decided in the favour of petitioner and against the respondents.

RELIEF

22. In view of my discussion on the issues no. 1 to 3 above, the claim petition succeeds and is partly allowed. The petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs. 50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as Chowkidar and grant him seniority and continuity of service from 1-1-2023 onwards. Parties are left to bear their costs.

23. 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 19th day of May, 2026.

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

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

Ref. No. : 75/2024 Date of Institution : 16.10.2024 Date of Decision : 19-5-2026

Shri Amin Chand s/o Shri Inder Singh, r/o Village Nawani, P.O. Triphalghat, Tehsil Baldwara, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2 : Sh. Jatinder Rana, 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 termination of services of Shri Amin Chand s/o Shri Inder Singh, r/o Village Nawani, P.O. Triphalghat, Tehsil Baldwara, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that the Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the month of April, 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview in the month of June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Division Baldwara and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 19.6.2019 and when petitioner reported for duty he was provided duty as beldar *w.e.f.* 19.6.2019 at GWSS Nouni Koto Alsogi and he continuously worked till 31-3-2023. It is alleged that the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Baldwara without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 19.6.2019 to 31-3-2023. It is

asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 19.6.2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 196 days in the year 2019, 366 days in 2020, 365 days in 2021,365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 19.6.2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till

31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not a gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine and respondents be directed to pay litigation costs of Rs. 15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2023 till 31-3-2023. It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs. 3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is denied that respondent no.1 had verbally terminated the service of petitioner on 1-4-2023 without complying with the provisions of Industrial Disputes Act. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily waged by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022.

It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had releasd full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

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

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

1. Whether the termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged?

..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

6. Petitioner Shri Amin Chand in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by the respondent no.1 Ext. PW1/C, copy of reply filed by respondent no. 2 Ext. PW1/D and copy of rejoinder Ext. PW1/E. Petitioner has also examined Shri Virender Kumar s/o Late Shri Bali Ram, r/o Village Kotrohan, P.O. Kot, Tehsil Baldwara, District Mandi, H.P. as PW2 by way of examination-in-chief wherein he has stated that he is posted as fitter since 2006 under Samela Section Baldwara and still working in the same place. He stated that petitioner was posted as beldar with him. Attendance register from January, 2023 to March, 2023 bears his signatures and he had verified the attendance of petitioner and sometimes it was done by Supervisor and JE which are exhibited as Ext. PW2/A to Ext. PW2/C. Miss Riya Dhiman has examined by the petitioner as PW3 wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW3/A.

7. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark-R2/A and copy of appointment letter Mark-R2/B.

8. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for respondent no.1 and learned counsel for respondent no. 2 at length and records perused.

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

Issue No. 1 : Partly Yes

Issue No. 2 : Decided accordingly

Issue No. 3 : No

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

REASONS FOR FINDINGS

Issue No.1

10. The petitioner has deposed in his affidavit that Himachal Pradesh Jal Shakti Vibhag Shimla had issued a notification to fill up the vacant posts of pump operators, helpers and other categories after obtaining necessary documents. The petitioner was made aware of this notification by way of regular employees of the department of respondent no.1 and he contacted the superintendent of the office of Jal Shakti Division Sarkaghat. He was also informed that interview was being conducted for the above posts. He attended the interview conducted by Executive Engineer, Jal Shakti Division Sarkaghat as well as Jal Shakti Division Baldwara and also submitted his essential documents to respondent no.1. He further states that after interview he was verbally asked to report for duties in the office of Assistant Engineer, Jal Shakti Sub Division Baldwara on 19.6.2019 at GWSS Nouni Koto Alsogi first. He alleged that he continuously worked upto 31-3-2023. On 19.6.2019 he was illegally enrolled under the rolls of M/s Shimla Cleanways (Contractor) by the Assistant Engineer. His work was verified by Junior Engineer and regular fitter of the department. He was paid through Shimla Cleanways upto 31-12-2022 even though he performed his service till 31-3-2023. He has alleged that his services were illegally terminated *w.e.f.* 1-4-2023. He has further alleged that since more than 20 workmen were engaged through outsource agency M/s Shimla Cleanways (respondent no. 2), Contract Labour (Regulation and Abolition) Act, 1970 is applicable. In these circumstances respondents had mandatorily not complied with essential registration under Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970. In absence of the same, so called outsource system was sham and camouflage. He submitted that work performed by the petitioner was perennial in nature which could be done by regular workers working whole time. It is also submitted that outsource system was merely sham and camouflage which required contract labour to be treated as employee of principal employer. He has alleged that the act and conduct of the respondent no.1 to obtain service of workman through contractor was merely to deny the benefit and status of regular employees to the workmen which amounts to unfair labour practice under the Industrial Disputes Act, 1947.

11. Petitioner has examined PW2 Shri Virender Kumar who deposed on oath that he had worked as fitter under the respondent no.1 at Samela Section Baldwara since 2006. According to him petitioner used to work with him and his (petitioner's) attendance is Ext. PW2/A to Ext. PW2/C for January, February and March, 2023 which bears his signatures. He used to verify the attendance and sometimes it was also verified by the Junior Engineer or Supervisor.

12. RW1 Shri Vivek Hazri has stated on oath that petitioner was employee of the respondent no. 2 and respondent no.1 had no concern with him. He has denied that petitioner was interviewed and appointed by respondent no.1. He has asserted that respondent had executed a contract agreement with respondent no. 2 as an outsource agency which agreement had expired on 31-12-2022. The petitioner had worked only upto 31-12-2022 as an outsource employee of outsource agency. According to him petitioner is not entitled for benefits beyond 31-12-2022.

13. RW2 Shri Bhupesh Janartha, Contractor, M/s Shimla Cleanways has also deposed that petitioner was engaged purely on outsource basis through his company. The petitioner was aware that his engagement was temporary and co-terminous with contract. The expiry of contract was on 31-12-2022. The services of outsource employees automatically ended.

14. The petitioner has however alleged that his appointment was actually done by respondent no.1 by way of interview pursuant to notification regarding various works. No such

notification or record of interview has been produced in the case file. The petitioner admitted that every government post is advertised and the process is followed for recruitment. He admitted that he has not produced record allegedly submitted by him to the department neither he could produce the appointment letter issued by the respondent no.1.

15. Ext. RW1/B is job letter contract provided by respondent no.1 to respondent no. 2 initially this contract was for a period of one year. Ext. RW1/C is the agreement to provide manpower. Mark-R2/A is the certificate of work duly completed by respondent no. 2 of the awarded amount upto 31-12-2022 and balance of security.

16. Petitioner is alleging that he had worked upto 31-3-2023 with respondent no.1. This allegation is supported and corroborated by deposition of PW2 Shri Virender Kumar who has certified this fact by Ext. PW2/A to Ext. PW2/C which show that petitioner has worked with respondent no.1 upto 31-3-2023. This witness has admitted that this register entries were not verified by supervisor and not signed by any officer. This admission is not enough to prove that any false document has been prepared and produced by this witness. No suggestion was made to him that he was not an employee of respondent no.1 and also that he was not duly authorized to verify the attendance register of workman. He has completely shown ignorance to the fact that bill was claimed on the basis of muster roll prepared by M/s Shimla Cleanways. Pertinent to observe that no such muster rolls prepared by M/s Shimla Cleanways has been produced by respondents with regard to work done by the petitioner after 31-12-2022.

17. RW2 Shri Bhupesh Janartha the contractor of M/s Shimla Cleanways has very clearly stated that after expiry of contract agreement which took place on 31-12-2022 the labour was not employed by them. RW1 Shri Vivek Hazri has expressed ignorance to the document Ext. PW2/A. He insists that petitioner's contract ended on 31-12-2022. Significantly, he has mentioned that from 1-1-2023 to 31-3-2023 only regular employees of the department had carried out the work. No documentary evidence of the work done by regular employees or their attendance corresponding to the dates on which attendance of petitioner is marked has been produced on record. Respondents have also not produced any record of attendance shown to be verified by JE or supervisor or by the contractor. The above evidence clearly shows that work of labour was verified by PW2. Once the respondent no.1 has failed to produce attendance record of regular workers from 1-1-2023 to 31-3-2023 the contention of the petitioner finds weight. It is established that upto 31-12-2022 the petitioner worked on the rolls of respondent no. 2 and thereafter upto 31-3-2023 there was no contract existing between the respondent no.1 and respondent no. 2.

18. RW1 Shri Vivek Hazri has admitted the signatures of Assistant Engineer on Ext. R1 where the petitioner is shown to have worked upto 365 days till 31-12-2022. This document along-with Ext PW2/A to Ext. PW2/C clearly depict that the petitioner was continuously working with respondent no.1 for 240 days prior to 31-3-2023. It is the contention raised by respondents no.1 and 2 that petitioner was employed only on part-time basis for six hours per day. The mandays chart Ext. R1 produced on record does not mention this fact. The definition of workmen under Section 2(s) of the Industrial Disputes Act, 1947 as follows:—

> "2(s)["workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person- *[Substituted by Act 46 of 1982, Section 2, for Cl. (s) (w.e.f. 21.8.1984).]*

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison, or

(iii) who is employed mainly in a managerial or administrative capacity, or

(iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]"

The above definition clearly does not make distinction between full and part-time worker.

19. The petitioner however has not been able to prove that petitioner was inducted on a sanctioned post by way of direct interview by respondent no.1. The work contract between respondent no.1 and respondent no. 2 expired on 31-12-2022. Despite this respondent no.1 had continued to avail the services of the petitioner after expiry of the period of contract *i.e.* 31-12-2022. At the time of alleged termination, petitioner could not be termed as contract labour, petitioner has completed continuous service of 240 days preceding his termination therefore respondent no.1 was under an obligation to comply with the provisions of the Industrial Disputes Act, 1947. It is established that termination of the services of petitioner by the respondent no.1 *w.e.f.* 1-4-2023 was illegal and unjustified and in violation of the provisions of the Industrial Disputes Act, 1947. Accordingly issue no.1 is decided in the favour of petitioner.

Issue No. 2

20. It is proved that the termination of petitioner was under respondent no.1 and petitioner himself deposed that M/s Shimla Cleanways had not terminated his services. He has denied that after 31-12-2022 there is no liability of M/s Shimla Cleanways to pay his salary but it is a proved fact that after 31-12-2022 there was no existing contract of supply of labour to respondent no.1 by respondent no. 2. In case there was any violation of the provisions pertaining to Section 7 and Section 12 Clause (1) of Contract Labour (Regulations and Abolition Act), 1970 the remedy lies within the Act specifically the provisions of penalty for the above violations. The continuous employment of petitioner after expiry of contract agreement and non payment of salary of the said period along-with termination of his services without compliance under Section 25 Clause F also amounted to unfair labour practice under Schedule Vth of the Industrial Disputes Act, 1947. In the light of above established facts and circumstances, the petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs.50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and grant him seniority and continuity of service from 1-1-2023 onwards.

Issue No. 3

21. The onus of proving this issue was on the respondents. The maintainability of the claim was primarily challenged on the ground that there was no direct relationship of master and servant between respondent no.1 and the petitioner. It was also submitted that petitioner has worked only upto 31-12-2022 *i.e.* during subsistence of contract of supply of labour between respondent no.1 and respondent no. 2. It however appeared from the evidence that the petitioner has worked with respondent no.1 beyond the above period and his services were terminated without compliance of Section 25 Clause F of the Industrial Disputes Act, 1947. Hence the petition is maintainable and issue no.3 is decided in the favour of petitioner and against the respondents.

RELIEF

22. In view of my discussion on the issues no. 1 to 3 above, the claim petition succeeds and is partly allowed. The petitioner is entitled to payment of three months' salary on daily wages from 1-1-2023 to 31-3-2023 along-with compensation of Rs.50,000/- for wrongful termination. The above amount shall be payable along-with interest of 6% from the date of termination. The respondents are also directed to reinstate the services of petitioner on similar post as beldar and grant him seniority and continuity of service from 1-1-2023 onwards. Parties are left to bear their costs.

23. 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 19th day of May, 2026.

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

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

Ref. No. : 76/2024 Date of Institution : 16.10.2024 Date of Decision : 19-5-2026

Shri Gopal Dass s/o Shri Nikka Ram, r/o Village Takrehar, P.O. Gehra, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Gopal Dass s/o Shri Nikka Ram, r/o Village Takrehar, P.O. Gehra, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview on January, 2020 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Sub Division Bhaderwar and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Bhaderwar on 23-1-2020 and when petitioner reported for duty he was provided duty as Chowkidar *w.e.f.* 23-1-2020 at LWSS Sarkaghat and he continuously worked till 31-3-2023. It is alleged that on 31-1-2020 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 23.1.2020 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi,

therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 23-1-2020 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 344 days in the year 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 23-1-2020 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Chowkidar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs. 15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on

the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023.It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The

allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..OPP.

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Gopal Dass in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no. 2 Ext. PW1/C and copy of rejoinder Ext. PW1/D. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment

letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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
Relief.	: Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No.1 and 2

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to his appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023. The petitioner has deposed that his services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in his cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. He has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. He has admitted that post on which he was allegedly appointed was not advertised neither any written test was conducted though he has mentioned that interview was conducted however he is ignorant of the fact whether any result was declared. According to him he was informed about the selection by way of telephonic communication only. He has admitted that on appointment in government job an appointment letter is issued however he has admitted that no such appointment letter was received by him. He has admitted that his salary was paid in his bank account by respondent no. 2. He has shown his

ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that he had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that he was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that his services were illegally enrolled in the roll of respondent no. 2 31-1-2020 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 20-1-2020 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673).** Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and**

Ors., Civil Appeal Nos.8446-8447 of 2022 has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:—

4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.

4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.

4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.

4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:-

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:-

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air

India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can

grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that his services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim himself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of his salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to

termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has himself conceded that he was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No.3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. : 78/2024 Date of Institution : 16.10.2024 Date of Decision : 19-5-2026

Shri Ashok Kumar s/o Shri Khyali Ram, r/o Village Munwal, P.O. Fetehpur, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner* .

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu NIwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

3.

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

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

For the respondent No.1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For the respondent No. 2: Sh. Jatinder Rana, 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 termination of services of Shri Ashok Kumar s/o Shri Khyali Ram, r/o Village Munwal, P.O. Fatehpur, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in month of April, 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview *w.e.f.* 9-6-2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Sub Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 10-6-2019 and when petitioner reported for duty he was provided duty as pump operator *w.e.f.* 10-6-2019 at LWSS Fatehpur Badal Lunadha and he continuously worked till 31-3-2023. It is alleged that on 30-6-2019 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 10-6-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per

month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 10-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 205 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 10-6-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by

the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14, 16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as pump operator with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023.It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs.3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the

services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Ashok Kumar in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no.1 Ext. PW1/C, copy of reply filed by respondent no. 2 Ext. PW1/D and copy of rejoinder Ext. PW1/E. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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

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

REASONS FOR FINDINGS

Issues No.1 and 2

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to his appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023. The petitioner has deposed that his services were terminated by respondent no.1.

Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in his cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. He has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. He has admitted that post on which he was allegedly appointed was not advertised neither any written test was conducted though he has mentioned that interview was conducted however he is ignorant of the fact whether any result was declared. According to him he was informed about the selection by way of telephonic communication only. He has admitted that on appointment in government job an appointment letter is issued however he has admitted that no such appointment letter was received by him. He has admitted that his salary was paid in his bank account by respondent no. 2. He has shown his ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that he had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that he was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that his services were illegally enrolled in the roll of respondent no. 2 on 30-6-2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 10-6-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR 1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337, Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673).** Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has

further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos. 8446-8447 of 2022** has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:—

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
>
> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.
>
> 4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.
>
> 4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs.

National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:-

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:—

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining

to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that his services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim himself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of his salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has himself conceded that he was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No.3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

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

Ref. No. : 79/2024 Date of Institution: 16-10-2024 Date of Decision : 19-5-2026

Shri Ashwani Kumar s/o Shri Ramesh Kumar, r/o Village Bahlra Cheek, P.O. Maseran, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

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

For the petitioner	: Sh. N.L. Kaundal, Ld. AR : Sh. Vijay Kaundal, Ld. Adv.
For the respondent No.1	: Sh. B.C. Katoch, Ld. Dy. D.A.
For the respondent No. 2	: Sh. Jatinder Rana, 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 termination of services of Shri Ashwani Kumar s/o Shri Ramesh Kumar, r/o Village Bahlra Cheek, P.O. Maseran, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division, Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) *w.e.f.* 01-04-2023 (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, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The brief facts as stated in the claim petition are that Government of Himachal Pradesh Jal Shakti Vibhag Shimla has issued notification in the year 2019 and circulated to all the head of departments *i.e.* Engineer-in-Chief, Chief Engineers, Superintending Engineers and Executive Engineers to fill up the vacant posts of pump operator, helper and other categories after obtaining necessary documents *i.e.* qualification certificate, diploma in any trade, ITI certificate, saving account number, date of birth proof and aadhar card etc. It is asserted that when petitioner came to know about the notification from regular employees of the department then he enquired about the process of appointment thereafter the petitioner attended interview on June, 2019 conducted by respondent no.1 *i.e.* Assistant Engineer, Jal Shakti Sub Division Sarkaghat and Superintendent office of respondent no.1 and submitted all the necessary documents. After interview the respondent no.1 verbally asked the petitioner to report for duty in the office of Assistant Engineer, Jal Shakti Sub Division Sarkaghat on 10-6-2019 and when petitioner reported for duty he was provided duty as Beldar *w.e.f.* 10-6-2019 at LWSS Sarkaghat and he continuously worked till 31-3-2023. It is alleged that on 30.6.2024 the service of petitioner were enrolled in the rolls of respondent no. 2 by the Assistant Engineer, Jal Shakti Sub Division Sarkaghat without written consent of the petitioner. It is submitted that from the date of petitioner's engagement he performed duties more than eight hours per day but only Rs.3500/- were paid to him whereas the petitioner had continuously performed his duties along-with regular employees of the department. It is asserted that the during the period of his service the work and conduct of the petitioner was satisfactory and he had never given any chance for complaint to the department officials and his

regular colleagues. It is asserted that petitioner and other regular beldars of department performed their duties under control and supervision of department *w.e.f.* 10-6-2019 to 31-3-2023. It is asserted that respondent no. 2 M/s Shimla Cleanways (Contractor) had never visited at work place of petitioner and not marked his daily attendance in muster roll however the attendance of the petitioner was marked by the officials of the department and on the basis of attendance respondent no. 2 paid monthly wages to petitioner amounting to Rs.3500/- per month through bank account till 31-12-2022. The petitioner had performed his duties till 31-3-2023 however payment of three months *i.e.* January to March, 2023 was not made to petitioner by the respondents no.1 and 2 till date. It is alleged that the services of the petitioner were verbally and unlawfully terminated by respondents no.1 *w.e.f.* 1-4-2023 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. Thereafter petitioner had raised industrial dispute under Section 2A/2K of the Industrial Disputes Act, 1947 through legal advisor all Himachal PWD, IPH and Contractual Workers Union *(Regd. No.640) vide* demand notice and copy of the same was forwarded to Labour-*cum*-Conciliation Officer, Mandi which was transferred to the Labour Inspector Joginder Nagar by the Labour Officer Mandi. During conciliation proceedings the respondents no.1 and 2 filed reply to the demand notice of petitioner as well as rejoinder to the reply was also filed by the petitioner but the dispute could not be settled amicably between the parties and failure report under Section 12 (4) was sent to the Labour Commissioner, H.P. It is asserted that respondent no.1 had engaged more than 20 workmen through outsource agency M/s Shimla Cleanways (Contractor) and the Contract Labour (Regulation and Abolition) Act, 1970 is very much applicable to the respondents however neither respondent no.1 registered as principal employer under Section 7 nor the respondent no. 2 obtained license under Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 from the office of Labour Officer, Mandi, therefore so called outsource system is sham and camouflage and the petitioner was the employee of respondent no.1. No show cause notice and charge-sheet was issued to the petitioner before his termination and no inquiry was conducted against him in accordance with the provisions of Industrial Employment Standing Order Act, 1946. It is asserted that respondent no.1 had also not given one month notice under Section 25 Clause F (a) and no retrenchment compensation under Section 25-F (b) was paid to the petitioner and also no intimation was given to the Labour Commissioner, Himachal Pradesh whereas the petitioner had worked with the respondent no.1 continuously *w.e.f.* 10-6-2019 to 31-3-2023. It is asserted that petitioner had completed more 240 days in each and every calendar year and 12 calendar preceding months from the date of his termination. It is asserted that petitioner was duly covered under the definition of continuous service as per Section 25 Clause B of the Industrial Disputes Act, 1947. It is asserted that petitioner had worked for 205 days in the year 2019, 366 days in 2020, 365 days in 2021, 365 days in 2022 and 93 days till 31-3-2023 but the services of the petitioner were terminated by respondent no.1 without complying with the provisions of Sections 25-F of the Industrial Disputes Act, 1947. It is alleged that termination of the services of petitioner was null, void ab-initio. It is asserted that during pandemic petitioner continuously performed his duty as the service of petitioner falls under definition of essential service and the work assigned to the petitioner by the respondent no.1 was permanent in nature. It is asserted that respondent no.1 had engaged workmen till 2018 on muster roll on daily waged basis however the government of H.P. had made policy to engage the workmen in any establishment through outsource agency against vacant post of regular workmen whose services were retired after completion of 58/60 years age. It is asserted that the government had engaged the workers through outsource agency to deprive legal right of workmen for the purpose of regularization in accordance with the policy of government and respondent no.1 was adopted unfair labour practice within the meaning of Section 2(ra) read with Schedule 5th Clause 10 of the Industrial Disputes Act, 1947. It is asserted that respondent no.1 in his reply filed before the Labour Inspector Joginder Nagar mentioned that petitioner was appointed *w.e.f.* 10-6-2019 through outsource agency (respondent no. 2) and worked uptil 31-12-2022. Though respondent no. 2 submitted that services of petitioner was deployed to respondent no.1 and worked upto 31-2-2022 however respondent no. 2 had not mentioned the date of joining of petitioner in the reply to demand notice but mentioned that the

contract period of respondent no.1 and respondent no. 2 had expired on 31-12-2022. It was not intimated to the petitioner during his services that he had signed contract with respondent no.1 till 31-12-2022 and no written intimation was given by respondent no. 2 to the petitioner in the month of December, 2022 with regard to expiring of contract on 31-12-2022. It is asserted that no documents regarding contract agreement was provided by respondents no.1 and 2 before the conciliation proceedings. It is asserted that the work of pump house is still continuing by the respondent no.1 and contract was given to other person *w.e.f.* 1-4-2023 providing manpower like as pump operator, helper, fitter and labourer but no opportunity was given to the petitioner violating Section 25-H of the Industrial Disputes Act,1947. The act of respondents no.1 and 2 terminating the services of petitioner without complying with the Industrial Disputes Act was highly unjustified, arbitrary, unconstitutional, contrary and against the principle of natural justice as well as Articles 14,16 and 21 of the Constitution of India. It is asserted that the petitioner was not gainfully employed anywhere from the date of his termination. It is therefore prayed that illegal termination *i.e.* 1-4-2023 of petitioner may be set aside and quashed and respondents be directed to reinstate the services of petitioner at his old working place as Beldar with full back wages, seniority, continuity in service and other consequential benefits. Respondent no.1 be directed to engage the services of petitioner in the rolls of department as the contract labour system is not genuine respondents be directed to pay litigation costs of Rs.15000/-.

3. In reply to the claim petition filed on behalf of respondent no.1 preliminary objections qua maintainability, concealment of true and material facts by the petitioner and cause of action etc. have been raised. On merits, it is asserted that the petitioner was the employee of respondent no. 2. The respondent no.1 had given contract to respondent no. 2 to engage and deploy labour on the scheme of Jal Shakti Vibhag by outsource agency respondent no. 2 as per MOU/Agreement dated 5-3-2019. It is asserted that petitioner was entitled to file and maintain the present claim petition against respondent no. 2 as petitioner was their employee and respondent no.1 had no concern with it. It is denied that the department obtained necessary documents for filling up vacant post of pump operator, helper and other categories. It is alleged that petitioner had concealed the material facts from the court as he supplied all the documents to respondent no. 2. It is denied that petitioner had approached the respondent no.1 and was assured that they would conduct interview of different post in the department. It is asserted that contract agreement with outsource agency ended on 31-12-2022 and agency had released full payment of contract period. It is denied that petitioner had attended the work after 31-12-2022 till 31-3-2023.It is mentioned that once agreement expired the question of hiring of labour does not arise. It is asserted that petitioner was never recruited directly by replying respondents. The petitioner had worked as an outsource employee through outsource agency respondent no. 2. It is denied that after 31-1-2020 service of petitioner were illegally enrolled in the rolls of respondent no. 2 by Assistant Engineer Jal Shakti Sub Division Bhaderwar without written consent of the petitioner. It is denied that replying respondent paid salary of Rs. 3500/- to petitioner, in-fact salary was paid to the petitioner by respondent no. 2. It is mentioned that Labour Inspector, Joginder Nagar had wrongly sent report against respondent no.1 as the report should have be sent against respondent no. 2 who was employer of the petitioner. It is asserted that respondent had no authority to terminate the service of petitioner as he was employee of the respondent no. 2. It is denied that replying respondent was under an obligation to follow provisions of Section 25-F (b) of the Industrial Disputes Act. In-fact petitioner worked only as an outsource employee of outsource agency. It is asserted that all field workers whether engaged as daily wager by the department or outsource employees and other regular field staff had performed duties during corona period which could not be taken as ground for induction as permanent workers of the replying respondent department. It is denied that the petitioner had worked for 344 days in the year 2020, 365 days in 2021, 2022 and 93 days in 2023 with the respondent no.1 as he (petitioner) was employee of the respondent no. 2 and it was the duty of respondent no. 2 to maintain record of payment. It is asserted that petitioner had no right to continue on department run scheme/work after expiry of contract period which ceased to exist with

the outsourcing agency as on 31-12-2022. It is denied that department had made appointments uptil 2018 on outsource basis only. In-fact after 2018 the government had taken a conscious decision to not to hire workers through an outsource agency and made appointment through direct recruitment of workers *i.e.* fitter/beldar/pump operators etc. in Jal Shakti Vibhag however petitioner was not part of said appointment who had worked under an outsource agency hence contention of violation of legal right of the petitioner is denied. It is asserted that replying respondent had outsourced the services of some workers according to requirement at work which contract agreement had been extended from time to time. It is asserted that contract agreement with outsource agency had ended on 31-12-2022 and respondent no.1 had released full payment of contract period to respondent no. 2. Other averments and allegations made in the claim petition are denied and it is prayed that claim petition being devoid of merits deserves to be dismissed with cost.

4. Respondent no. 2 has filed reply to the claim petition where preliminary objections qua maintainability have been raised. On merits, it is partly admitted to the extent that petitioner had submitted documents and attended an interview. However he was never issued any formal appointment letter by the replying respondent. Petitioner's engagement had commenced under a private outsourcing arrangement and he worked as a beldar under that agreement until the contract expired as part time worker. His posting was on part time basis and not by way of any direct recruitment or regular departmental procedure. It is asserted that petitioner was engaged as part time worker through outsource arrangement and as such his attendance was not required to be recorded in the regular muster roll maintained by the department. The record of his work if maintained would have been with the concerned officer of the department as per terms of outsourcing contract. Petitioner was never inducted into any official roll of the department. The allegation that the services of petitioner was shifted without his consent are asserted as baseless and without merit. The services of petitioner was under the control of outsourcing agency. The attendance and deployment was coordinated between replying respondent and department for the sake of work efficiency. The responsibility for wages and related dues remained with the replying respondent and all dues upto 31-12-2022 were paid. It is further submitted that the claim of wages from January to March, 2023 is baseless since the contract ended on 31-12-2022 and thereafter no services were taken by replying respondent. It is asserted that no termination order was ever issued by the replying respondent. The contract under which the petitioner was engaged come to an end and there was no obligation to issue a show cause notice or retrenchment compensation under Section 25-F as the petitioner was never a regular or permanent employee. His claim of continuous service is denied as not supported by any record. It is asserted that the provisions of Sections 25-B and 25-F are not applicable in his case. It is asserted that the allegation that the contractor was a sham entity is baseless and without any evidence. The contract was duly awarded in accordance with applicable rules and statutory provisions and all legal formalities were observed. It is asserted that relationship between the parties was purely contractual for a fixed term. It is submitted that due to covid-19 pandemic the concerned department was unable to issue Form-5 to replying respondent which was beyond the latter's control. It is asserted that the provisions of Industrial Employment (Standing Orders) Act do not apply to a purely outsourced engagement. It is asserted that no inquiry or notice was required as the petitioner was never on the roll of the replying respondent and the contract came to a natural end with the date of expiry. It alleged that allegation of contract being a camouflage had not lawful or factual basis. It is asserted that petitioner does not fall within the scope of workman in terms of nature of his engagement however his relationship if any was with the outsource agency and not with the department. It is asserted that there was no extension or renewal of the agreement beyond 31-12-2022 and therefore the question of applying Section 25-H does not arise. It is asserted that there was no violation of Articles 14, 16 and 21 of the Constitution as the engagement was temporary on part time basis and the petitioner was well aware of these terms from the beginning. Other averments made in the claim petition were denied parawise and it is prayed that the claim petition filed by the petitioner being devoid of merit be dismissed.

5. In rejoinder 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 termination of services of the petitioner by the respondents *w.e.f.* 01-04-2023 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, past service benefits and compensation, as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. Petitioner Shri Ashwani Kumar in order to prove his case examined himself as PW1 by way of affidavit Ext. PW1/A. He has also produced on record the documents *i.e.* copy of mandays chart Mark-A, copy of demand notice Ext. PW1/B, copy of reply filed by respondent no. 2 Ext. PW1/C and copy of rejoinder Ext. PW1/D. Petitioner has also examined Miss Riya Dhiman, Assistant Engineer as PW2 by way of examination-in-chief wherein she has stated that appointment letter/office order of Smt. Manju Kumari d/o Sh. Balam Ram is true copy as per official record which is Ext. PW2/A.

8. Respondent No.1 on the other hand has examined Shri Vivek Hazri, Executive Engineer, JSV, Division Sarkaghat, District Mandi, H.P. by way of affidavit Ext. RW1/A. He has also produced on record the documents *i.e.* copy of letter dated 23-2-2019 Ext. RW1/B, copy of agreement dated 5-3-2019 Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D and copy of meeting dated 5-7-2022 Ext. RW1/E. Respondent no. 2 has examined Shri Bhupesh Janartha, Occupation Contractor, Sahibu Niwas, Sector-2, New Shimla, H.P. who has tendered his affidavit Ext. RW2/A and the documents copy of balance security Mark R2/A and copy of appointment letter Mark-R2/B.

9. I have heard the learned Authorized Representative/ Counsel and learned Dy. D.A. for 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
Relief.	: Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No.1 and 2

11. Both these issues are taken up together for the purpose of adjudication.

12. The petitioner in the present case has made statement with regard to his appointment by the respondent no.1 corresponding to a notification circulated to all heads of department regarding filling up of vacancies of pump operators, helpers and other categories after obtaining necessary documents. This reference is regarding termination of petitioner by the respondent no.1 on 1-4-2023 the petitioner has deposed that his services were terminated by respondent no.1. Quite contrary to this respondent no.1 has asserted that petitioner was employed through a contractor *i.e.* respondent no. 2 initially for a period of three months and thereafter the contract between respondent no.1 respondent no. 2 was extendable from time to time and continued uptil 31-12-2022. The petitioner in his cross-examination has admitted that in order to obtain the service under government department there is set of regulations and set procedure and process. He has also admitted that even if the work is to be given on contract basis there is test and interview conducted by the department. It is admitted, whenever the vacancies arise in the department these are advertised and requisite form also could be filled up. He has admitted that post on which he was allegedly appointed was not advertised neither any written test was conducted though he has mentioned that interview was conducted however he is ignorant of the fact whether any result was declared. According to him he was informed about the selection by way of telephonic communication only. He has admitted that on appointment in government job an appointment letter is issued however he has admitted that no such appointment letter was received by him. He has admitted that his salary was paid in his bank account by respondent no. 2. He has shown his ignorance to the suggestion that work contract had been awarded to respondent no. 2 by respondent no.1 which had expired on 31-12-2022.

13. The respondents however have maintained that respondent no.1 had awarded a contract to the respondent no. 2 for engaging and deploying labour for on scheme of Jal Shakti Vibhag. In this regard documents Ext. RW1/B, copy of agreement Ext. RW1/C, copy of letter dated 7-7-2022 Ext. RW1/D, copy of meeting dated 5-7-2022 Ext. RW1/E have been produced on the case file. All these documents clearly show that contract have been awarded by respondent no.1 to respondent no. 2 for supplying of labour. RW2 Shri Bhupesh Janartha has also produced on record the copy of balance security Mark-R2/A and appointment letter Mark-R2/B. These documents have not been controverted in his cross-examination and these documents clearly show that the petitioner was given appointment letter by respondent no. 2 till the completion of the work which has been awarded to respondent no. 2 by respondent no.1. No other appointment document is produced on record by petitioner.

14. The contention of the petitioner that he had worked after 31-12-2022 *i.e.* from 1-3-2023 to 31-3-2023 is not supported and corroborated by any other documentary or oral evidence. No attendance or muster roll of the said period is produced on record. Even during the evidence of the petitioner, the petitioner had not required the respondents to produce the muster roll or attendance for the said period. Thus there is no cogent proof of the employment of petitioner by respondent no.1 or respondent no. 2 after 31-12-2022.

15. There is a specific pleading on behalf of the petitioner that he was appointed by way of interview by respondent no.1. He also alleged the vacancies were notified and circulated in the department. No other oral or the documentary evidence to support this contention is produced on record nor any appointment letter allegedly issued by respondent no.1 could be produced. Contrary to the contention of the petitioner that his services were illegally enrolled in the roll of respondent no. 2 on 30-6-2019 the document Mark-R2/B the appointment letter clearly shows that initial appointment of petitioner was conducted on 10-6-2019 by respondent no. 2 and not by respondent no.1. No better evidence to controvert this document could be produced on behalf of the petitioner. Learned Authorized Representative of petitioner has laid reliance on the various judgments namely **Pradhan Baijnath Tea Estate Mazdoor Sangh vs. State of Himachal Pradesh, (2019 LLR 1239), Mackinnon Mackenzie & Co. Ltd. vs. Mackinnon Employees Union (2016 LLR 337,**

Jasmer Singh vs. State of Haryana, (2015 LLR 225), Central Bank of India vs. S. Satyam (1996 SCC (L&S) 1273, D.K. Yadav vs. J.M.A. Industries Ltd., Bbuvenesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd, (2014 LLR 673). Learned Authorized Representative has vehemently argued that the disengagement of the petitioner on 31-3-2023 amounted to retrenchment and was without issuance of legal notice. Learned Authorized Representative has further submitted that the respondents have not complied with the provision of Contract Labour (Regulation and Abolition) Act, 1970 while employing the labour and this points towards the fact that the labour contract between respondent no.1 and respondent no. 2 was a sham and camouflage agreement merely to deprive the workmen of their rights with regard to continuous service. The learned Authorized Representative has also pointed out that appointment of the petitioner was carried out by respondent no.1 and the petitioner had worked under the control and supervision of respondent no.1. This clearly implied that the introduction of a contractor by respondent no.1 while appointing the petitioner was merely sham and camouflage agreement and petitioner should be considered as an employee of respondent no.1 and not respondent no. 2. The contention of learned Authorized Representative for the petitioner that respondents violated the provisions of Section 7 and Section 12 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 cannot be considered as ground for automatic absorption of petitioner as an employee of respondent no.1 as there are specific penalty provided under the Act in case the violation of the above mentioned provisions. The Hon'ble Supreme Court in **Kirloskar Brothers Limited vs. Ramcharan and Ors., Civil Appeal Nos. 8446-8447 of 2022** has held in paras no.4, 4.1, 4.2, 4.3, 4.4, 4.7 and 4.8 as follows:—

> 4. Having heard learned senior counsel appearing on behalf of the appellant and the material on record, it appears that the contesting respondents herein were the contractual labourers of the respondent No. 7 – contractor, who was a contractor engaged by the appellant in terms of the contract dated 22-04-1995, which was renewed from time to time. It is an admitted position in the present case that no notification under Section 10 of the CLRA Act has been issued by the State Government / appropriate Government, prohibiting the contract labour. It also appears that upon entering into the contract, necessary compliance under the CLRA Act was also completed by the appellant and the respondent No. 7 – contractor. On the labour contract coming to an end, the services of the contesting respondents were dispensed with by the contractor.
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> 4.1 On going through the entire material on record, no documentary evidence was produced, by which it can be said that the contesting respondents were the employees of the appellant. There is no provision under Section 10 of the CLRA Act that the workers/employees employed by the contractor automatically become the employees of the appellant and/or the employees of the contractor shall be entitled for automatic absorption and/or they become the employees of the principal employer. It is to be noted that even the direct control and supervision of the contesting respondents was always with the contractor. There is no evidence on record that any of the respondents were given any benefits, uniform or punching cards by the appellant.
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> 4.2 Under the contract and even under the provisions of the CLRA, a duty was cast upon the appellant to pay all statutory dues, including salary of the workmen, payment of PF contribution, and in case of non- payment of the same by the contractor, after making such payment, the same can be deducted from the contractor's bill. Therefore, merely because sometimes the payment of salary was made and/or PF contribution was paid by the appellant, which was due to non-payment of the same by the contractor, the contesting respondents shall not automatically become the employees of the principal employer – appellant herein.

4.3 Even otherwise, as observed hereinabove, in the absence of a notification under Section 10 of the CLRA Act unless there are allegations or findings with regard to a contract being sham, private respondents herein, who are as such the workmen/employee of the contractor, cannot be held to be employees of the appellant and not of the contractor. At this stage, the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra) is required to be referred to. Following two questions fell for consideration before this Court:-

A. whether the concept of automatic absorption of contract labour in the establishment of the principal employer on issuance of the abolition notification, is implied in Section 10 of the CLRA Act; and B. whether on a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour, emerges.

4.4 After considering various decisions of this Court on the point, in paragraph 125, it was concluded as under:-

"125. The upshot of the above discussion is outlined thus:

(1)(a) Before 28-1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government" as stood in the CLRA Act, on the answer to a further question, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition of that expression, the answer to the question referred to above, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein eo nomine, or (ii) any industry is carried on (a) by or under the authority of the Central Government, or (b) by a railway company; or (c) by a specified controlled industry, then the Central Government will be the appropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.
(2)(a) A notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central Advisory Board or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labour in the establishment in question, and

(ii) other relevant factors including those mentioned in sub-section (2) of Section 10;

(b) Inasmuch as the impugned notification issued by the Central Government on 9-12-1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do

so prospectively *i.e.* from the date of this judgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before the date of this judgment, shall be called in question in any tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment.

Consequently the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare that any direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labour following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act 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 with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not 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 regularise the services of the contract labour in the establishment concerned subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications." 4.5 Thus, as observed and held by this Court, neither Section 10 of the CLRA Act nor any other provision in the Act, expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or any other work in any establishment and consequently, the principal employer cannot be required to order absorption of the contract labour working in the establishment concerned. It has further been observed and held by this Court in the aforesaid decision that on issuance of prohibition notification

under Section 10(1) of the CLRA Act, prohibiting employment of contract labour or otherwise, in case of 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 with various beneficial legislations so as to deprive the workers of the benefits thereunder. 4.6 In the present case, neither any notification under Section 10(1) of the CLRA Act has been issued prohibiting the contract labour, nor there are allegations and/or even findings that the contract is sham and bogus and/or camouflage.

4.7 In the case of International Airport Authority of India Vs. International Air Cargo Workers' Union and Anr. (supra), after considering the decision of this Court in the case of Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors. (supra), it has been observed and held by this Court that where there is no abolition of contract labour under Section 10 of the CLRA Act, but the contract labour contends that the contract between the principal employer and the contractor is sham and nominal, the remedy is purely under the ID Act. It is further observed that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employee and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short, who has direct control over the employee. It is further observed that where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was a sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularise the services of the contract labour does not arise. It has further been observed in paragraphs 38 and 39 as under :-

"38. The tests that are applied to find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

4.8 Applying the law laid down by this Court in the aforesaid two decisions to the facts of the case on hand and in the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a

serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act".

16. The present reference is not with regard to the regularization of the contract labour allegedly deployed by the respondent no.1. The reference has been received by this court pertaining to the termination of the services of the petitioner. The onus was on the petitioner to establish by way of leading evidence that his services were appointed by respondent no.1. Merely because the petitioner was working under the control and supervision of respondent no.1 after being inducted and deputed by respondent no. 2 the petitioner could not claim himself to be the workman of respondent no.1. The petitioner had to prove by leading evidence that the contract between respondent no.1 and respondent no. 2 was sham and camouflage and petitioner has not produced the record of his salary directly paid by respondent no.1. Ext. RW1/E extended the contract of respondent no. 2 till 31-12-2022. It is not the case of the petitioner that no salary upto 31-12-2022 has been paid. The job contract was mainly for supply of manpower for individual scheme but posting order and payment of salary was done by respondent no. 2. RW2 Shri Bhupesh Janartha has mentioned that he had issued/given notice to the workman by way of notice board prior to termination of the contract with respondent no.1 specifically in the month of November, 2022. The termination of petitioner on 31-12-2022 is not in question. Petitioner has himself conceded that he was not terminated by respondent no. 2. The fact that the petitioner was appointed by respondent no. 2 and the contract between respondent no. 2 and respondent no.1 expired on 31-12-2022 leading to disengagement of petitioner does not bring the case bring the case of the petitioner under retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. Thus the disengagement of the petitioner by the respondents is not proved to be on 1-4-2023 but on 31-12-2022 which was natural consequence of expiration of contract period and the issues no. 1 and 2 cannot be decided in the favour of the petitioner.

Issue No.3

17. The maintainability of petition was primarily challenged on the ground that petitioner was appointed by respondent no. 2 who is contractor. Respondent no. 2 was awarded the contract for supply of labour by respondent no.1. The services of petitioner had come to an end on the expiry of contract. There is no evidence to show that agreement between respondent no.1 and respondent no. 2 was sham and camouflage so as to consider that the petitioner is the workman of respondent no.1. Hence the present claim is not maintainable.

RELIEF

18. In view of my discussion on the issues no. 1 to 3 above, the claim petition does not deserve any merit accordingly the same is dismissed. Parties are left to bear their costs.

19. 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 19th day of May, 2026.

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

कार्यालय उपायुक्त, चम्बा, जिला चम्बा (हि0प्र0)

अधिसूचना

दिनांक 10 जुलाई, 2026

संख्याः पीसीएच–सीबीए–चम्बा–1677.—हिमाचल प्रदेश पंचायती राज अधिनियम 1994 की धारा 126 व हिमाचल प्रदेश पंचायती राज (सामान्य) नियम 1997 के नियम 124 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, मैं, मुकेश रेपसवाल (भा0प्र0से0), उपायुक्त, चम्बा, जिला चम्बा (हि०प्र०) जिला परिषद् चम्बा, जिला चम्बा के निर्वाचित अध्यक्ष व उपाध्यक्ष के नामों को सर्वसाधारण की जानकारी हेतु निम्न सारणी अनुसार प्रकाशित करता हूं–

क्रम संख्या	जिला परिषद् का नाम	निर्वाचन का दिनांक	निर्वाचित अध्यक्षा का नाम व पता	निर्वाचित उपाध्यक्ष का नाम व पता
1.	चम्बा	10–07–2026	श्रीमती रेखा कुमारी पत्नी श्री पवन कुमार, गांव द्रबड, तह0 व डाकघर सलूणी, जिला चम्बा हि0प्र0।	श्री लियाकत अली सुपुत्र स्व0 श्री नूर अली, गांव देहरी, डा0 साहो, तहसील व जिला चम्बा हि0प्र0।

हस्ताक्षरित / –
(मुकेश रेपसवाल, भा0प्र0से0),
उपायुक्त चम्बा, जिला चम्बा (हि0प्र0)।

PANCHAYATI RAJ DEPARTMENT

NOTIFICATION

Shimla-171 009, the 9th July, 2026

No. PCH-HB(1)3/2007-39145-39209.—On the recommendations of the Departmental Promotion Committee, the Governor, Himachal Pradesh, is pleased to order the promotion of **Sh. Vijay Bragta, Deputy Director, Panchayati Raj (Class-I, Gazetted)** to the post of **Joint Director, Panchayati Raj (Class-I, Gazetted)**, in the Pay Matrix Level-21 (₹67,400–2,01,200) under the Himachal Pradesh Civil Services (Revised Pay) Rules, 2022, on a regular basis, with immediate effect.

The officer shall exercise his option for fixation of pay under the provisions of FR 22 within one month from the date of issue of this order.

By order,
Secretary (Panchayati Raj).

Office Of the Sub-Divisional Magistrate, Tehsil Jhandutta, District Bilaspur (H.P.)

Sh. Sunder Ram s/o Sh. Bhagat Ram, r/o Vill. Jungle Jai Shree Devi, P.O. Koserian, Sub-Tehsil Kalol, Distt. Bilaspur, Himachal Pradesh . . *Applicant*.

Versus

General Public . .*Respondent.*

Sh. Sunder Ram s/o Sh. Bhagat Ram, r/o Vill. Jungle Jai Shree Devi, P.O. Koserian, Sub-Tehsil Kalol, Distt. Bilaspur, Himachal Pradesh has submitted an application to the undersigned for correction in name of his son namely Mr. Sourabh Kaushal in his Aadhar Card. He further submitted that the correct name of his son as per School Certificate bearing Serial No. 24/C001/010235, Reg.No. 221138120018 dated 07-05-2024 issued by the Himachal Pradesh Board of School Education Dharamshala is spelled out as Sourabh Kaushal. In this connection he supported School Certificate mentioned above.

Therefore, through this proclamation, the general public is hereby informed that any person having any objection for correction in name as mentioned above may submit his objection in writing within (30) thirty days from the date of publication of this notice in official Gazette. No objection will be entertained after prescribed period and application will be decided accordingly.

Given under my hand and seal of this court on this 15th day of June, 2026.

Seal. Sd/-

Sub-Divisional Magistrate,
Jhandutta, District Bilaspur(H.P.).

Office Of the Sub-Divisional Magistrate, Tehsil Jhandutta, District Bilaspur (H.P.)

Smt. Babli Devi *alias* Bimla Devi d/o Sh. Amar Chand, r/o Vill. Kharota, P.O. Berthin, Tehsil Jhandutta, Distt. Bilaspur, Himachal Pradesh . .*Applicant*.

Versus

General Public . .*Respondent.*

Smt. Babli Devi *alias* Bimla Devi d/o Sh. Amar Chand, r/o Vill. Kharota, P.O. Berthin, Tehsil Jhandutta, Distt. Bilaspur, Himachal Pradesh presenlty w/o Sh. Yog Raj r/o Vill. Gochar, P.O. Daslehra, Tehsil Jhandutta, Distt. Bilaspur, Himachal Pradesh has submitted an application to the undersigned for correction in her name and date of birth in her Aadhar Card. She further submitted that her name and date of birth as per Birth Certificate bearing Serial No. 103 dated 20-12-2025 issued by the Local Registrar (Birth, Death & Marriage) Gram Panchayat Badgaon is entered as Bimla Devi/21-02-1971. She also stated that in Panchayat record of G.P. Daslehra, her name is entered as Babli Devi alias Bimla Devi. She further stated that in School record of her son, her name is entered as Babli Devi. In this connection she supported Birth Certificate copy of Pariwar Nakal & School Certificate of her son mentioned above.

Therefore, through this proclamation, the general public is hereby informed that any person having any objection for correction in name as mentioned above may submit his objection in writing within (30) thirty days from the date of publication of this notice in official Gazette. No objection will be entertained after prescribed period and application will be decided accordingly.

Given under my hand and seal of this court on this 27th day of June, 2026.

Seal. Sd/-
Sub-Divisional Magistrate,
Jhandutta, District Bilaspur(H.P.).

Office Of the Sub-Divisional Magistrate, Tehsil Jhandutta, District Bilaspur (H.P.)

Sh. Rajesh Sharma s/o Sh. Purshotam Dutt Sharma, r/o Vill. Malari, P.O. Malangan, Tehsil Jhandutta, Distt. Bilaspur, Himachal Pradesh-174029 . .*Applicant*.

Versus

General Public . .*Respondent.*

Sh. Rajesh Sharma s/o Sh. Purshotam Dutt Sharma, r/o Vill. Malari, P.O. Malangan, Tehsil Jhandutta, Distt. Bilaspur, Himachal Pradesh-174029 has submitted an application to the undersigned for correction in the name of his daughter in her Aadhar Card. He further submitted that the correct name of his daughter as per her School marks sheet of 2nd class, Bonafide Certificate ID No. BH20261242134358 issued by the Tehsildar, Tehsil Jhandutta, Parivar Nakal and birth certificate issued by Secretary G.P. Ghandir, Block Jhandutta is spelled out as Aashriya Sharma. In this connection he supported his daughter's Mark sheet of 2nd class, Bonafide Certificate and Parivar Nakal mentioned above.

Therefore, through this proclamation, the general public is hereby informed that any person having any objection for correction in name as mentioned above may submit his/her objection in writing within (30) thirty days from the date of publication of this notice in official Gazette. No objection will be entertained after prescribed period and application will be decided accordingly.

Given under my hand and seal of this court on this 18th day of June, 2026.

Seal. Sd/-
Sub-Divisional Magistrate,
Jhandutta, District Bilaspur(H.P.).

In the Court of Sub-Divisional Magistrate, Bhattiyat at Chowari,
District Chamba (H.P.)

In the matter of :

Rufo Devi d/o Sh. Ruda Ram, r/o Village Kathlu, P.O. Ghatasani Pul, Tehsil Bhattiyat, District Chamba (H.P.).

Versus

General Public

Proclamation for the delayed birth registration under Section 13(3) of the Registration of Births and Deaths Act, 1969.

Whereas, an application of Smt. Rufo Devi d/o Sh. Ruda Ram, r/o Village Kathlu, P.O. Ghatasani Pul, Tehsil Bhattiyat, District Chamba (H.P.). has been received in this office through Additional registrar (Birth & Death)-*cum*-Medical Officer of Health Chamba, Distt. Chamba (H.P.) for the delayed registration of her birth in accordance with Section 13(3) of the Registration of Births and Deaths Act, 1969.

Whereas, it has been stated in the application that Rufo Devi was born on 01-04-1962, but the registration of her birth could not be done within the prescribed period as stipulated under the Act and Rules made thereunder.

Now, therefore, in order to verify and confirm the accuracy of the information provided this proclamation is hereby issued for the general information of the public at large. Any person having any objection or relevant information with regard to the delayed registration of the aforesaid birth is hereby called upon to submit the same in writing to the undersigned within 30 (thirty) days from the date of issuance of this notice.

In case no objection is received within the stipulated period, it shall be presumed that no objection exists, and the matter shall be proceeded with further in accordance with law.

Issued under my hand & seal on this 2nd day of July, 2026.

Seal. Sd/-
Sub-Divisional Magistrate,
Bhattiyat, Distt. Chamba (H.P.).

In the Court of Sub-Divisional Magistrate, Bhattiyat at Chowari,
District Chamba (H.P.)

In the matter of :

Sonal Chhetri d/o Sh. Yobinder Singh, r/o Village and P.O. Kakira, Tehsil Bhattiyat, District Chamba (H.P.).

Versus

General Public

Proclamation for the delayed birth registration under Section 13(3) of the Registration of Births and Deaths Act, 1969.

Whereas, an application of Smt. Sonal Chhetri d/o Sh. Yobinder Singh, r/o Village and P.O. Kakira, Tehsil Bhattiyat, District Chamba (H.P.) has been received in this office through Additional registrar (Birth & Death)-*cum*-Medical Officer of Health Chamba, Distt. Chamba (H.P.) for the delayed registration of her birth in accordance with Section 13(3) of the Registration of Births and Deaths Act, 1969.

Whereas, it has been stated in the application that Sonal Chhetri was born on 05-11-1976, but the registration of her birth could not be done within the prescribed period as stipulated under the Act and Rules made thereunder.

Now, therefore, in order to verify and confirm the accuracy of the information provided this proclamation is hereby issued for the general information of the public at large. Any person having

any objection or relevant information with regard to the delayed registration of the aforesaid birth is hereby called upon to submit the same in writing to the undersigned within 30 (thirty) days from the date of issuance of this notice.

In case no objection is received within the stipulated period, it shall be presumed that no objection exists, and the matter shall be proceeded with further in accordance with law.

Issued under my hand and seal on this 2nd day of July, 2026.

Seal. Sd/-
Sub-Divisional Magistrate,
Bhattiyat, Distt. Chamba (H.P.).

In the Court of Sub-Divisional Magistrate, Bhattiyat at Chowari, District Chamba (H.P.)

In the matter of :

Ratto s/o Sh. Jagto, r/o Vill. Findel, P.O. Bakloh, Tehsil Bhattiyat, Distt. Chamba (H.P.)

Versus

General Public

Proclamation for the delayed birth registration under Section 13(3) of the Registration of Births and Deaths Act, 1969.

Whereas, an application of Ratto s/o Sh. Jagto, r/o Vill. Findel, P.O. Bakloh, Tehsil Bhattiyat, Distt. Chamba (H.P.) has been received in this office through Additional registrar (Birth & Death)-*cum*-Medical Officer of Health Chamba, Distt. Chamba (H.P.) for the delayed registration of his birth in accordance with Section 13(3) of the Registration of Births and Deaths Act, 1969.

Whereas, it has been stated in the application that Sh. Ratto was born on 14-11-1967, but the registration of his birth could not be done within the prescribed period as stipulated under the Act and Rules made thereunder.

Now, therefore, in order to verify and confirm the accuracy of the information provided, this proclamation is hereby issued for the general information of the public at large. Any person having any objection or relevant information with regard to the delayed registration of the aforesaid birth is hereby called upon to submit the same in writing to the undersigned within 30 (thirty) days from the date of issuance of this notice.

In case no objection is received within the stipulated period, it shall be presumed that no objection exists, and the matter shall be proceeded with further in accordance with law.

Issued under my hand and seal on this 3rd day of July, 2026.

Seal. Sd/-
Sub-Divisional Magistrate,
Bhattiyat at Chowari, District Chamba (H.P.).

ब अदालत नायब तहसीलदार व कार्यकारी दण्डाधिकारी, उप–तहसील पुखरी, जिला चम्बा (हि0प्र0)

श्री रमेश कुमार पुत्र श्री चमन सिंह, गांव तौसा, डाकघर सिढकुंड, उप–तहसील पुखरी, जिला चम्बा (हि0प्र0) ..वादी।

बनाम

आम जनता एवं ग्राम पंचायत सिढकुंड, विकास खण्ड चम्बा ..प्रतिवादी।

विषय.––जन्म तिथि प्रविष्ट करने बारा।

इस अदालत में उपमण्डलाधिकारी (ना0) महोदय चम्बा के कार्यालय पृष्ठांकन संख्या 5491 / 2026 दिनांक 02–07–2026 के माध्यम से प्राप्त दस्तावेज क्रमशः

1. जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्याः–HFW-B&D/CMO-CBA/2025/19848, दिनांक 25-06-2026.
2. शपथ–पत्र
3. जन्म रिपोर्ट
4. आधार कार्ड।
5. शिक्षा प्रमाण–पत्र

जिसमें आवेदक श्री रमेश कुमार पुत्र श्री चमन सिंह, गांव तौसा, डाकघर सिढकुंड, उप–तहसील पुखरी, जिला चम्बा (हि0प्र0) की जन्म तिथि किन्हीं कारणों से पंचायत अभिलेख में दर्ज करने से रह गई है। परिणामस्वरूप पंचायत जन्म पंजीकरण रजिस्टर में आवेदक श्री रमेश कुमार पुत्र श्री चमन सिंह, गांव तौसा, डाकघर सिढकुंड का नाम एवं जन्म तिथि दर्ज न हुआ है जो नियमानुसार अनिवार्य है। इस विषय की पुष्टि शपथ–पत्र व जारी जन्म रिपोर्ट जो जिला पंजीकरण जन्म एवं मृत्यु अधिकारी चम्बा ने अपने प्रमाण–पत्र जो दिनांक 25–06–2026 को जारी हुआ है, उसमें की है।

अतः सर्वसाधारण को इस नोटिस के माध्यम से सूचित किया जाता है कि श्री रमेश कुमार पुत्र श्री चमन सिंह, गांव तौसा, डाकघर सिढकुंड, उप–तहसील पुखरी, जिला चम्बा की जन्म तिथि 01–04–1988 जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के प्रावधानों के अन्तर्गत पंचायत से सम्बन्धित अभिलेख अथवा जिला पंजीकरण (जन्म एवं मृत्यु) द्वारा अभिलेख दर्ज करने के आदेश पारित किये जाने हैं। अगर किसी को किसी भी प्रकार की कोई आपत्ति हो तो वह इस अदालत में नोटिस (इश्तहार) के एक माह के भीतर सुबह 10.00 से सायं 5.00 बजे तक अपनी आपत्ति दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में आवेदक श्री रमेश कुमार पुत्र श्री चमन सिंह, गांव तौसा, डाकघर सिढकुंड की जन्म तिथि सम्बन्धित अभिलेख में दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 03–07–2026 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी,
उप–तहसील पुखरी, जिला चम्बा (हि0प्र0)।

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In the Court of Tehsildar-cum-Executive Magistrate, Bharmour, District Chamba (H.P.)

Smt. Sunita Devi s/o w/o d/o Sh. Sunil Kumar, r/o Village Hadsar, P.O. Hadsar, Tehsil & District Chamba (H.P.) ..*Applicant.*

Versus

General Public

Proclamation under order 5 Rule 20 C.P.C. under Section 13(3) of the H.P. Registration of Births and Deaths Act, 1969.

Whereas, Smt. Sunita Devi s/o w/o d/o Sh. Sunil Kumar, r/o Village Hadsar, P.O. Hadsar, Tehsil & District Chamba (H.P.) has filed affidavit for registration of Delayed Birth of his/her daughter's *i.e.* 29-03-2012 for further entry in the records of Gram Panchayat Hadsar development block Bharmour. It has been stated in the application that due to some unavoidable circumstances birth could not be registered well in time.

Sl. No.	Name	Date of Birth
1.	Ananya Sharma d/o Sunil Kumar	29-03-2012

Hence, this proclamation is issued to the General Public, that if they have any objection/ claim regarding the registration of birth of above named in records of concerned Gram Panchayat Hadsar may file their claim/objection on or before one month of publication of this notice in Govt. Gazette in this court, failing which necessary orders will be passed.

Issued under my hand & seal today on this _____ day of _____2026.

Seal. Sd/-

Tehsildar-cum-*Executive Magistrate,*
Bharmour, Distt. Chamba (H.P.).

ब अदालत तहसीलदार नादौन एवं सहायक समाहर्ता प्रथम श्रेणी, नादौन, तहसील नादौन, जिला हमीरपुर (हि0प्र0)

आगामी सुनवाई : 27–07–2026

श्री विपन कुमार उप्पल पुत्र धर्म सिंह, निवासी महाल वसारल, मौजा हथोल, तहसील नादौन, जिला हमीरपुर (हि0प्र0)।

बनाम

आम जनता

विषय.––प्रार्थना–पत्र बराए नाम दुरुस्ती बारे।

श्री विपन कुमार उप्पल पुत्र धर्म सिंह, निवासी महाल वसारल, मौजा हथोल, तहसील नादौन, जिला हमीरपुर (हि0प्र0) ने दिनांक 08–07–2026 को इस अदालत में एक प्रार्थना–पत्र प्रस्तुत किया है कि उसका नाम कागजात माल टीका वसारल, मौजा हथोल, तहसील नादौन, जिला हमीरपुर में विपन चन्द दर्ज है, परन्तु अन्य जगह उसका नाम विपन कुमार उप्पल दर्ज है। प्रार्थी का कहना है कि यह दोनों नाम उसी के हैं। प्रार्थी अब दुरुस्ती करवाकर कागजात माल टीका वसारल, मौजा हथोल, तहसील नादौन, जिला हमीरपुर में अपना नाम विपन कुमार उप्पल दर्ज करवाना चाहता है।

अतः इस इश्तहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त प्रार्थी का नाम दुरुस्त करने बारे कोई उजर एवं एतराज हो तो वह असालतन या वकालतन तारीख पेशी 27–07–2026 को दोपहर 2.00 बजे मुकाम नादौन हाजिर अदालत होकर अपना उजर पेश कर सकता है। तारीख पेशी के बाद किसी किस्म का एतराज काबिले समायत न होगा तथा प्रार्थी के प्रार्थना–पत्र पर नाम दुरुस्ती बारे आवश्यक आदेश पारित कर दिये जायेंगे।

यह इश्तहार मोहर अदालत व मेरे हस्ताक्षर से आज दिनांक 08–07–2026 को जारी हुआ।

मोहर। हस्ताक्षरित / –
सहायक समाहर्ता प्रथम श्रेणी,
नादौन, तहसील नादौन, जिला हमीरपुर (हि0प्र0)।

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In the Court of Executive Magistrate (Naib Tehsildar), Bhoranj, District Hamirpur (H.P.)

In the matter of :

Smt. Savitri Devi d/o Sh. Bakshi Ram, Village Dadu, P.O. Baroh, Tehsil Bhoranj, District Hamirpur (H.P.) . . *Applicant.*

Versus

General Public . .*Respondent.*

Subject.—Application u/s 13(3) of Birth and Death Registration Act, 1969 and Section 9(3) of H.P. Birth and Death Registration Rules, 2003.

Whereas, Smt. Savitri Devi d/o Sh. Bakshi Ram, Village Dadu, P.O. Baroh, Tehsil Bhoranj, District Hamirpur (H.P.) has moved an application before the undersigned under section 13(3) of Birth & Death Registration Act, 1969 and Section 9(3) of H.P. Birth & Death Registration Rules, 2003 alongwith affidavits and other relevant documents for entering the date of birth15-04-1958 which could not be registered in record of G.P. Dadu.

Now, therefore, by this proclamation, the general public is hereby informed that any person having any objection(s) for the registration of delayed date of birth Smt. Savitri Devi d/o Sh. Bakshi Ram of may submit their objections in writing or appear in person in this court on or before 04-08-2026 at 10.00 A.M., failing which no objection will be entertained after expiry of date.

Seal. Sd/-
Executive Magistrate,
Bhoranj, District Hamirpur (H.P.).

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In the Court of Executive Magistrate (Naib Tehsildar), Bhoranj, District Hamirpur (H.P.)

In the matter of :

Smt. Kamla Devi d/o Sh. Om Prakash, Village Kandyoh, P.O. Chamboh, Tehsil Bhoranj, District Hamirpur (H.P.) . . *Applicant.*

Versus

General Public . .*Respondent.*

Subject.—Application u/s 13(3) of Birth and Death Registration Act, 1969 and Section 9(3) of H.P. Birth and Death Registration Rules, 2003.

Whereas, Smt. Kamla Devi d/o Sh. Om Prakash, Village Kandyoh, P.O. Chamboh, Tehsil Bhoranj, District Hamirpur (H.P.) has moved an application before the undersigned under section 13(3) of Birth & Death Registration Act, 1969 and Section 9(3) of H.P. Birth & Death Registration Rules, 2003 alongwith affidavits and other relevant documents for entering the date of birth 25-01-1971 could not be registered in record of G.P. Chamboh.

Now, therefore, by this proclamation, the general public is hereby informed that any person having any objection(s) for the registration of delayed date of birth Smt. Kamla Devi d/o Sh. Om Praksah of may submit their objections in writing or appear in person in this court on or before 04-08-2026 at 10.00 A.M., failing which no objection will be entertained after expiry of date.

Seal. Sd/-

Executive Magistrate,
Bhoranj, District Hamirpur (H.P.).

In the Court of Executive Magistrate (Naib Tehsildar), Bhoranj, District Hamirpur (H.P.)

In the matter of :

Sh. Kamlesh Kumar s/o Sh. Anant Ram, r/o Village Doh, P.O. Badhani, Tehsil Bhoranj, District Hamirpur (H.P.) . . *Applicant.*

Versus

General Public . .*Respondent.*

Subject.—Application u/s 13(3) of Birth and Death Registration Act, 1969 and Section 9(3) of H.P. Birth and Death Registration Rules, 2003.

Whereas, Sh. Kamlesh Kumar s/o Sh. Anant Ram, r/o Village Doh, P.O. Badhani, Tehsil Bhoranj, District Hamirpur (H.P.) has moved an application before the undersigned under section 13(3) of Birth & Death Registration Act, 1969 and Section 9(3) of H.P. Birth & Death Registration Rules, 2003 alongwith Affidavits and other relevant documents for entering the date of birth 13-04-1966 could not be registered in record of G.P. Badhani.

Now, therefore, by this proclamation, the general public is hereby informed that any person having any objection(s) for the registration of delayed date of birth Sh. Ramesh Chand s/o Sh. Anant Ram, of may submit their objections in writing or appear in person in this court on or before 03-08-2026 at 10.00 A.M., failing which no objection will be entertained after expiry of date.

Seal. Sd/-

Executive Magistrate,
Bhoranj, District Hamirpur (H.P.).

In the Court of Executive Magistrate (Naib Tehsildar), Bhoranj, District Hamirpur (H.P.)

In the matter of :

Sh. Suresh Kumar Sharma s/o Sh. Sukh Dev Sharma, Village Ramehra, P.O. Jakhyol, Tehsil Bhoranj, District Hamirpur (H.P.) . . *Applicant.*

Versus

General Public . .*Respondent.*

Subject.—Application u/s 13(3) of Birth and Death Registration Act, 1969 and Section 9(3) of H.P. Birth and Death Registration Rules, 2003.

Whereas, Sh. Suresh Kumar Sharma s/o Sh. Sukh Dev Sharma, Village Ramehra, P.O. Jakhyol, Tehsil Bhoranj, District Hamirpur (H.P.) has moved an application before the undersigned under section 13(3) of Birth & Death Registration Act, 1969 and Section 9(3) of H.P. Birth & Death Registration Rules, 2003 alongwith Affidavits and other relevant documents for entering the date of birth 03-07-1968 could not be registered in record of G.P. Kharwar.

Now, therefore, by this proclamation, the general public is hereby informed that any person having any objection(s) for the registration of delayed date of birth Sh. Suresh Kumar Sharma s/o Sh. Sukh Dev Sharma of may submit their objections in writing or appear in person in this court on or before 02-08-2026 at 10.00 A.M., failing which no objection will be entertained after expiry of date.

Seal. Sd/-
Executive Magistrate,
Bhoranj, District Hamirpur (H.P.).

In the Court of Executive Magistrate (Tehsildar), Bhoranj, District Hamirpur (H.P.)

In the matter of :

Smt. Chanchlo Devi d/o Sh. Bhadur Singh, Village Ruthani, P.O. Town Bharari, Tehsil Bhoranj, District Hamirpur (H.P.) . . *Applicant.*

Versus

General Public . .*Respondent.*

Subject.—Application u/s 13(3) of Birth and Death Registration Act, 1969 and Section 9(3) of H.P. Birth and Death Registration Rules, 2003.

Whereas, Smt. Chanchlo Devi d/o Sh. Bhadur Singh, Village Ruthani, P.O. Town Bharari, Tehsil Bhoranj, District Hamirpur (H.P.) has moved an application before the undersigned under section 13(3) of Birth & Death Registration Act, 1969 and Section 9(3) of H.P. Birth & Death Registration Rules, 2003 alongwith Affidavits and other relevant documents for entering the date of birth 01-05-1962 could not be registered in record of G.P. Nandhan.

Now, therefore, by this proclamation, the general public is hereby informed that any person having any objection(s) for the registration of delayed date of birth Smt. Chanchlo Devi d/o Sh. Bhadur Singh of may submit their objections in writing or appear in person in this court on or before 25-07-2026 at 10.00 A.M., failing which no objection will be entertained after expiry of date.

Seal. Sd/-

Executive Magistrate,
Bhoranj, District Hamirpur (H.P.).

In the Court of Executive Magistrate (Naib Tehsildar), Bhoranj, District Hamirpur (H.P.)

In the matter of :

Sh. Ramesh Chand s/o Sh. Anant Ram, r/o Village Doh, P.O. Badhani, Tehsil Bhoranj, District Hamirpur (H.P.) . . *Applicant.*

Versus

General Public . .*Respondent.*

Subject.—Application u/s 13(3) of Birth and Death Registration Act, 1969 and Section 9(3) of H.P. Birth and Death Registration Rules, 2003.

Whereas, Sh. Ramesh Chand s/o Sh. Anant Ram, r/o Village Doh, P.O. Badhani, Tehsil Bhoranj, District Hamirpur (H.P.) has moved an application before the undersigned under section 13(3) of Birth & Death Registration Act, 1969 and Section 9(3) of H.P. Birth & Death Registration Rules, 2003 alongwith Affidavits and other relevant documents for entering the date of birth 22-05-1963 could not be registered in record of G.P. Badhani.

Now, therefore, by this proclamation, the general public is hereby informed that any person having any objection(s) for the registration of delayed date of birth Sh. Ramesh Chand s/o Sh. Anant Ram, of may submit their objections in writing or appear in person in this court on or before 03-08-2026 at 10.00 A.M., failing which no objection will be entertained after expiry of date.

Seal. Sd/-

Executive Magistrate,
Bhoranj, District Hamirpur (H.P.).

In the Court of Sub-Divisional Magistrate, Exercising the Power of Marriage Officer Jawalamukhi, Distt. Kangra (H.P.)

In the matter of :

1. Vintu aged 31 years s/o Sh. Parkash Chand, r/o Village Jasehar (Aluha), P.O. Tihri, Tehsil Khundian, Distt. Kangra (H.P.).

2. Sneh Lata aged 31 years d/o Sh. Sarwan Kumar, r/o Village Bharoli Bhagour, P.O. Jhallan, Tehsil Nadaun, Distt. Hamirpur (H.P.) . .*Applicants.*

Versus

General Public .. *Respondent.*

Subject.—Notice for registration of Marriage under Special Marriage Act, 1954.

The above applicants have filed an application u/s 16 of Special Marriage Act, 1954 alongwith affidavits and supporting documents in the court of undersigned in which they have stated that they have solemnized their marriage on 14-04-2026 at Nagni Mata Mandir, Tehsil Jawalamukhi, Distt. Kangra, H.P. and they are living as husband and wife since then, hence their marriage may be registered.

Therefore, the general public is hereby informed through this notice that if any person who have any objection regarding this marriage can file the objections personally or in writing before this office on or before 03-08-2026 at 11.00 A.M. The objection(s) after 03-08-2026 at 11.00 A.M. will not entertained by this office and then the marriage will be registered according as per the law prescribed.

Issued on this day 1st of July, 2026 under my hand and seal of this office.

Seal. Sd/-
Sub-Divisional Magistrate-cum- *Marriage Officer,*
Jawalamukhi, Distt. Kangra(H.P.).

ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय श्रेणी, खुण्डियां, जिला कांगड़ा (हि0प्र0)

मुकद्दमा नं0 : 8144106 / 2026 किस्म मुकद्दमा : दुरुस्ती नाम तारीख पेशी : 28–07–2026

श्रीमती सुरजीत कौंर पत्नी श्री प्रीतम चन्द, निवासी महाल खरमूहण, डाकघर बारी कलां, तहसील खुण्डियां, जिला कांगड़ा (हि0प्र0) .. प्रार्थिया।

बनाम

आम जनता .. प्रतिवादी।

विषय.––प्रार्थना–पत्र दुरुस्ती नाम राजस्व अभिलेख महाल खरमुहण मौजा खरयाना, तहसील खुण्डियां, जिला कांगड़ा, हि0प्र0।

श्रीमती सुरजीत कौंर पत्नी श्री प्रीतम चन्द, निवासी महाल खरमूहण, डाकघर बारी कलां, तहसील खुण्डियां, जिला कांगड़ा (हि0प्र0) ने एक प्रार्थना–पत्र मय शपथ पत्र पीठासीन अधिकारी के समक्ष प्रस्तुत करते हुए अनुरोध किया है कि उसका नाम पंचायत अभिलेख आधार कार्ड व अन्य दस्तावेज में सुरजीत कौंर दर्ज है, व उसका विख्यात व सही नाम भी सुरजीत कौंर ही है। परन्तु राजस्व अभिलेख पटवार वृत्त धार के महाल खरमूण में उसका नाम सुरजीत कुमारी गलत दर्ज हो गया है। अतः प्रार्थिया अब अपने नाम की राजस्व अभिलेख महाल खरमूहण में दुरुस्ती करवा करके सुरजीत कुमारी के बजाए सुरजीत कौंर उपनाम सुरजीत कुमारी दर्ज करवाना चाहती है।

अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस मुश्त्री / मुनादी चस्पांगी के माध्यम से आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थिया के नाम की राजस्व अभिलेख महाल खरमूहण में दुरुस्ती करवा करके सुरजीत कुमारी के बजाए सुरजीत कौंर उपनाम सुरजीत कुमारी दर्ज करवाने बारे किसी किस्म की आपत्ति या उजर हो तो वह तारीख पेशी 28–07–2026 को असालतन व वकालतन हाजिर अदालत होकर अपना उजर पेश कर सकता है। अन्यथा बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व नाम दुरुस्ती के आदेश पारित कर दिये जाएंगे।

यह इश्तहार आज दिनांक 25–06–2026 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर। हस्ताक्षरित / –
सहायक समाहर्ता द्वितीय श्रेणी,
तहसील खुण्डियां, जिला कांगड़ा (हि0प्र0)।

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ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय श्रेणी, तहसील खुण्डियां, जिला कांगड़ा (हि0प्र0)

मुकद्दमा नं0 : 8144107 / 2026 किस्म मुकद्दमा : दुरुस्ती नाम तारीख पेशी : 28–07–2026

श्रीमती सुरजीत कौंर पत्नी श्री प्रीतम चन्द, निवासी महाल खरमूहण, डाकघर बारी कलां, तहसील खुण्डियां, जिला कांगड़ा (हि0प्र0) .. प्रार्थिया।

बनाम

आम जनता .. प्रतिवादी।

विषय.––प्रार्थना–पत्र दुरुस्ती नाम राजस्व अभिलेख महाल गलोटी मौजा महादेव, तहसील खुण्डियां, जिला कांगड़ा, हि0प्र0।

इश्तहार मुश्त्री / मुनादी.––

श्रीमती सुरजीत कौंर पत्नी श्री प्रीतम चन्द, निवासी महाल गलोटी, डाकघर व तहसील खुण्डियां, जिला कांगड़ा (हि0प्र0) ने एक प्रार्थना–पत्र मय शपथ पत्र पीठासीन अधिकारी के समक्ष प्रस्तुत करते हुए अनुरोध किया है कि उसका नाम पंचायत अभिलेख आधार कार्ड व अन्य दस्तावेज में सुरजीत कौंर दर्ज है व उसका विख्यात व सही नाम भी सुरजीत कौंर ही है। परन्तु राजस्व अभिलेख पटवार वृत्त खुण्डियां के महाल गलोटी में उसका नाम सुरजीत कुमारी गलत दर्ज हो गया है। अतः प्रार्थिया अब अपने नाम की राजस्व अभिलेख महाल गलोटी में दुरुस्ती करवा करके सुरजीत कुमारी के बजाए सुरजीत कौंर उपनाम सुरजीत कुमारी दर्ज करवाना चाहती है।

अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस मुश्त्री / मुनादी चस्पांगी के माध्यम से आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थिया के नाम की राजस्व अभिलेख महाल गलोटी में दुरुस्ती करवा करके सुरजीत कुमारी के बजाए सुरजीत कौंर उपनाम सुरजीत कुमारी दर्ज करवाने बारे किसी किस्म की आपत्ति या उजर हो तो वह तारीख पेशी 28–07–2026 को असालतन व वकालतन हाजिर अदालत होकर अपना उजर पेश कर सकता है। अन्यथा बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व नाम दुरुस्ती के आदेश पारित कर दिये जाएंगे।

यह इश्तहार आज दिनांक 25–06–2026 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर। हस्ताक्षरित / –
सहायक समाहर्ता द्वितीय श्रेणी,
खुण्डियां, जिला कांगड़ा (हि0प्र0)।

Before the Marriage Officer-cum-**Sub-Divisional Officer, Tehsil Dheera,**
Distt. Kangra (H.P.)

In Ref :—

Rohit Rana and Diksha Rana

Versus

General Public

Subject.—Application Registration of marriage Under Section 16 of the Special Marriage Act, 1954.

An application under section 16 of the Special Marriage Act, 1954 has been received by the undersigned from Rohit Rana s/o Sh. Satish Rana, r/o Village Ladhi, P.O. Jalag, Tehsil Jaisinghpur, Distt. Kangra (H.P.) Pin Code-176 094 and Diksha Rana d/o Sh. Subhash Chand, r/o Village Noun, P.O. Thural, Tehsil Thural, Distt. Kangra (H.P.). If there is any objection on this marriage, the objection in person or through Counsel by submitted to this office on or before 07-08-2026 otherwise will be registered.

Seal. Sd/-
Marriage Officer-cum-*Sub-Divisional Officer,*
Tehsil Dheera, District Kangra (H.P.).

Before the Marriage Officer-cum-**Sub-Divisional Officer, Tehsil Dheera,**
Distt. Kangra (H.P.)

In Ref :—

Pankaj Kumar and Subham Kumari

Versus

General Public

Subject.—Application Registration of marriage Under Section 16 of the Special Marriage Act, 1954.

An application under section 16 of the Special Marriage Act, 1954 has been received by the undersigned from Pankaj Kumar s/o Sh. Bhoori Singh, r/o Village Dain, P.O. Dain, Tehsil Dheera, Distt. Kangra (H.P.) and Subham Kumari d/o Sh. Suresh Thakur, r/o Village Khalari Tolla, P.O. Kataha, Tehsil Madhubani, Distt. West Champaran (Bihar)-845 404. If there is any objection on this marriage, the objection in person or through Counsel by submitted to this office on or before 06-08-2026 otherwise will be registered.

Seal. Sd/-
Marriage Officer-cum-*Sub-Divisional Officer,*
Tehsil Dheera, District Kangra (H.P.).

Before the Marriage Officer-cum**-Sub-Divisional Officer, Tehsil Dheera, Distt. Kangra (H.P.)**

In Ref :—

Vishav Bhuria & Nanda Maya Limbu

Versus

General Public

Subject.—Application Registration of marriage Under Section 16 of the Special Marriage Act, 1954.

An application under section 16 of the Special Marriage Act, 1954 has been received by the under signed from Vishav Bhuria s/o Sh. Arjun Singh, r/o Village Lower Pakhi, P.O. Bair Ghata, Tehsil Thural, Distt. Kangra (H.P.) Pin Code-176 073 and Nanda Maya Limbu d/o Sh. Rabat Limbu, r/o Village Borhollong Na Gaon No. 3, P.O. Hollong Gutibari, Tehsil Margherita, Distt. Tinsukia, Assam-786 160. If there is any objection on this marriage, the objection in person or through Counsel by submitted to this office on or before 05-08-2026 otherwise will be registered.

Seal. Sd/-

Marriage Officer-cum-*Sub-Divisional Officer, Tehsil Dheera, District Kangra (H.P.).*

Before the Sub-Divisional Officer (Civil)-cum **Marriage Officer, Dehra, Distt. Kangra (H.P.)**

In the matter of :

1. Ajay Kumar s/o Sh. Lekh Raj, r/o Village Kurna, Post Office Saleti, Tehsil Rakkar, Distt. Kangra (H.P.).

2. Surekha Dhuri d/o Sh. Santosh Dhuri, r/o Ward No. 5, Kotni Sonal, Janjgir Champa (Chhatisgarh) . . *Applicants.*

Versus

General Public

Subject.—Application u/s 16 of Special Marriage Act, 1954, Registration of marriage.

Whereas, the above said applicants submitted an application u/s 16 of Special Marriage Act, 1954. Wherein it stated that they are solemnized their Marriage on 27-03-2026 in accordance with Hindu Rites & Customs and now they live together as husband and wife, thereafter. They requested for registration of their marriage under section 16 of Special Marriage Act, 1954.

So therefore this notice is hereby issued to the General Public and all the persons related to them that if any person has any objection regarding the registration of above said Marriage, then

he/she may submit his/her objection in this office within 30 days from the issue of this notice. Otherwise failing of which this application of marriage will be accepted & order in this regard will be issued accordingly.

Issued on the_____day of_____.

Seal. Sd/-
S.D.O. (C)-cum-*Marriage Officer,*
Dehra, Distt. Kangra (H.P.).

In the Court of Assistant Collector-cum**-Naib Tehsildar, Jawalamukhi,**
Distt. Kangra (H.P.) 176 036

Case No : 814284/2026 Date of Hearing : 21-07-2026

In the matter of :

Vijay Laxmi w/o Sh. Braham Dass Darek Lahar, P.O. Kathog, Tehsil Jawalamukhi, Distt. Kangra (H.P.) . . *Applicant.*

Versus

General Public . . *Respondent.*

Subject.—Application of Correction of Name Under Section 37(2) of Land Revenue Act, 1954.

Whereas, Vijay Laxmi w/o Sh. Braham Dass Darek Lahar, P.O. Kathog, Tehsil Jawalamukhi, Distt. Kangra (H.P.) has submitted an application under section 37(2) of the Land Revenue Act, 1954 alongwith all supportive document such as affidavit, Aadhar Card, PAN Card, Parivar Nakal and Jamabandi Parcha in the court of undersigned.

Wherein she stated that, she belongs to above mentioned address. Her name is written as Vijay Kumari in the land/revenue record of Mohal Darek, Lahar Mouza Kathog which is wrong. Her original/correct name is "Vijay Laxmi". Therefore, she request to correct her name as "Vijay Laxmi" instead of Vijay Kumari in the revenue record of Mohal Darek, Lahar Mouza Kathog, Tehsil Jawalamukhi, as per supportive document enclosed by her with the application file.

Therefore, through this proclamation in gazette/leading newspaper, the general public is hereby informed that, if any person having any objection for entry of correction in name of applicant mentioned above, may submit his/her objection in writing to this court before 21-07-2026. No objection will be entertained after prescribed period and application will be decided accordingly.

Given under my hand and seal of the Court on 22-06-2026.

Seal. Sd/-
Assistant Collector 2nd Grade,
Tehsil Jawalamukhi, Distt. Kangra (H.P.).

In the Court of Assistant Collector-cum-Naib Tehsildar, Jawalamukhi,
Distt. Kangra (H.P.) 176 036

Case No : 814293/2026 Date of Hearing : 22-07-2026

In the matter of :

Jagdish Lal s/o Sh. Birju Ram, r/o Village Chihru, P.O. & Tehsil Jawalamukhi, Distt. Kangra (H.P.) . . *Applicant.*

Versus

General Public . . *Respondent.*

Subject.—Application of Correction of Name Under Section 37(2) of Land Revenue Act, 1954.

Whereas, Jagdish Lal s/o Sh. Birju Ram, r/o Village Chihru, P.O. & Tehsil Jawalamukhi, Distt. Kangra (H.P.) has submitted an application under section 37(2) of the Land Revenue Act, 1954 alongwith all supportive documents such as affidavit, Parivar Nakal, PAN Card, 10th Markshet and Jamabandi Parcha in the court of undersigned.

Wherein he stated that, he belongs to above mentioned address. His name is written as Jagdish Chand in the land/revenue record of Mohal Chihru Mouza Darang, Tehsil Jawalamukhi which is wrong. His original/correct name is "Jagdish Lal". Therefore, he request to correct his name as "Jagdish Lal" instead of Jagdish Chand in the revenue record of Mohal Chihru Mouza Darang, Tehsil Jawalamukhi, as per supportive document enclosed by him with the application file.

Therefore, through this proclamation in gazette/leading newspaper, the general public is hereby informed that, if any person having any objection for entry of correction in name of applicant mentioned above, may submit his/her objection in writing to this court before 22-07-2026. No objection will be entertained after prescribed period and application will be decided accordingly.

Given under my hand and seal of the Court.

Seal. Sd/-
Assistant Collector 2nd Grade,
Tehsil Jawalamukhi, Distt. Kangra (H.P.).

In the Court of Assistant Collector-cum-Naib Tehsildar, Jawalamukhi,
Distt. Kangra (H.P.) 176 036

Case No : 814291/2026 Date of Hearing : 22-07-2026

In the matter of :

Rajeev Mohammad s/o Sh. Noor Deen, r/o Village Darang Mouza Darang, Tehsil Jawalamukhi, Distt. Kangra (H.P.) . . *Applicant.*

Versus

General Public . . *Respondent.*

Subject.—Application of Correction of Name Under Section 37(2) of Land Revenue Act, 1954.

Whereas, Rajeev Mohammad s/o Sh. Noor Deen, r/o Village Darang Mouza Darang, Tehsil Jawalamukhi, Distt. Kangra (H.P.) has submitted an application under section 37(2) of the Land Revenue Act, 1954 alongwith all supportive documents such as Aadhar Card, 12th Marksheet, Jamabandi Parcha and Parivar Nakal in the court of undersigned.

Wherein he stated that, he belongs to above mentioned address. His name is written as Rajeev Deen in the land/revenue record of Mohal Darang and Bareti which is wrong. His original/correct name is "Rajeev Mohammad". Therefore, he request to correct his name as "Rajeev Mohamad " instead of Rajeev Deen in the revenue record of Mohal Darang and Bareti, Tehsil Jawalamukhi, as per supportive document enclosed by him with the application file.

Therefore, through this proclamation in gazette/leading newspaper, the general public is hereby informed that, if any person having any objection for entry of correction in name of applicant mentioned above, may submit his/her objection in writing to this court before 22-07-2026. No objection will be entertained after prescribed period and application will be decided accordingly.

Given under my hand and seal of the Court on 25-06-2026.

Seal. Sd/-

Assistant Collector 2nd Grade,
Tehsil Jawalamukhi, Distt. Kangra (H.P.).

In the Court of Assistant Collector-cum**-Naib Tehsildar, Jawalamukhi,**
Distt. Kangra (H.P.) 176 036

Case No : 8142108/2026 Date of Hearing : 04-08-2026

In the matter of :

Salima Begam w/o Raseed Mohammad, r/o Village Kohla Sagwal, P.O. & Tehsil Jawalamukhi, Distt. Kangra (H.P.) . . *Applicant.*

Versus

General Public . . *Respondent.*

Subject.—Application of Correction of Name Under Section 37(2) of Land Revenue Act, 1954.

Whereas, Salima Begam w/o Raseed Mohammad, r/o Village Kohla Sagwal, P.O. & Tehsil Jawalamukhi, Distt. Kangra (H.P.) has submitted an application under section 37(2) of the Land Revenue Act, 1954 alongwith all supportive documents such as Affidavits, Aadhar Card, Jamabandi Parcha and Parivar Nakal in the court of undersigned.

Wherein she stated that, he belongs to above mentioned address. Her name is written as Salimo Bibi in the land/revenue record of Mohal Kohla Sagwal Mouza Bohan which is wrong. Her

original/correct name is "Salima Begam". Therefore, she request to correct his name as "Salima Begam" instead of Salimo Bibi in the revenue record of Mohal Kohla, Sagwal Mouza Bohan, Tehsil Jawalamukhi, as per supportive document enclosed by her with the application file.

Therefore, through this proclamation in gazette/leading newspaper, the general public is hereby informed that, if any person having any objection for entry of correction in name of applicant mentioned above, may submit his/her objection in writing to this court before 04-08-2026. No objection will be entertained after prescribed period and application will be decided accordingly.

Given under my hand and seal of the Court.

Seal. Sd/-

Assistant Collector 2nd Grade,
Tehsil Jawalamukhi, Distt. Kangra (H.P.).

ब अदालत श्री रमन ठाकुर, कार्यकारी दण्डाधिकारी बैजनाथ, जिला कांगड़ा (हि0प्र0)

रेशमू देवी पुत्री श्री भाग चन्द, निवासी गांव क्योरी, डाकघर बीड, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)।

बनाम

आम जनता

प्रार्थना–पत्र जेरे धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969।

रेशमू देवी पुत्री श्री भाग चन्द, निवासी गांव क्योरी, डाकघर बीड, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) ने इस अदालत में प्रार्थना–पत्र गुजारा है कि उसका जन्म दिनांक 02–04–1964 को गांव क्योरी, डाकघर बीड में हुआ था परन्तु इस बारे पंचायत के रिकार्ड में पंजीकरण नहीं करवाया जा सका। अतः अब पंजीकरण के आदेश दिये जायें।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त जन्म / मृत्यु के पंजीकरण बारे में कोई उजर / एतराज हो तो वह दिनांक 18–08–2026 को सुबह 10.00 बजे असालतन या वकालतन हाजिर आकर अपना उजर / एतराज पेश कर सकता है। अन्यथा उपरोक्त जन्म / मृत्यु के पंजीकरण बारे आदेश पारित कर दिये जायेंगे। उसके उपरान्त किसी भी प्रकार का कोई भी उजर / एतराज न सुना जायेगा।

आज दिनांक 07–07–2026 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –

कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा (हि0प्र0)।

ब अदालत श्री रमन ठाकुर, कार्यकारी दण्डाधिकारी, बैजनाथ, जिला कांगड़ा (हि0प्र0)

मुकद्दमा नं0 : किस्म मुकद्दमा : दुरुस्ती तारीख पेशी : 17–08–2025

विजय कुमार पुत्र श्री लच्छमण, निवासी गांव लोट, डाकघर उतराला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)।

बनाम

आम जनता

प्रार्थना–पत्र बराये दुरुस्ती राजस्व अभिलेख में प्रार्थी का नाम दुरुस्त करके भजंगा सिंह पुत्र श्री लच्छमण पुत्र श्री सुखिया के बजाए विजय कुमार पुत्र श्री लच्छमण पुत्र श्री सुखिया दर्ज करने बारे।

विजय कुमार पुत्र श्री लच्छमण, निवासी गांव लोट, डाकघर उतराला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) ने अदालत हजा में प्रार्थना–पत्र गुजारा है कि वह महाल लोट, तहसील बैजनाथ में भू–स्वामी है तथा राजस्व अभिलेख में उसका नाम भंजगा सिंह पुत्र श्री लच्छमण पुत्र श्री सुखिया है जबकि प्रार्थी का असल नाम विजय कुमार पुत्र श्री लच्छमण पुत्र श्री सुखिया है। लिहाजा इसे दुरुस्त करके विजय कुमार पुत्र श्री लच्छमण पुत्र श्री सुखिया किया जावे।

अतः सर्वसाधारण को इस इश्तहार के माध्यम से सूचित किया जाता है कि यदि किसी व्यक्ति को इस बारे में कोई उजर / एतराज हो तो वह दिनांक 17–08–2026 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन हाजिर आकर अपना उजर / एतराज पेश कर सकता है अन्यथा प्रार्थना–पत्र में नियमानुसार उचित आदेश पारित कर दिये जाएंगे।

आज दिनांक 06–07–2026 को मेरे हस्ताक्षर व मोहर द्वारा अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा (हि0प्र0)।

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ब अदालत श्री रमन ठाकुर, कार्यकारी दण्डाधिकारी, बैजनाथ, जिला कांगड़ा (हि0प्र0)

मुकद्दमा नं0 : किस्म मुकद्दमा : दुरुस्ती तारीख पेशी : 17–08–2026

राज कपूर पुत्र श्री कनहाकडू राम, निवासी वार्ड नं0 06, डाकघर उतराला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)।

बनाम

आम जनता

प्रार्थना–पत्र बराये दुरुस्ती राजस्व अभिलेख में प्रार्थी का नाम दुरुस्त करके राज कुमार पुत्र श्री कनहाकडू पुत्र श्री सूवा के बजाए राज कपूर पुत्र श्री कनहाकडू राम पुत्र श्री सूवा दर्ज करने बारे।

राज कपुर पुत्र श्री कनहाकडू राम, निवासी वार्ड नं0 06, डाकघर उतराला, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) ने अदालत हजा में प्रार्थना–पत्र गुजारा है कि वह महाल लोट, तहसील बैजनाथ में भू–स्वामी है तथा राजस्व अभिलेख में उसका नाम राज कुमार पुत्र श्री कनहाकडू पुत्र श्री सूवा है। जबकि प्रार्थी का असल नाम राज कपूर पुत्र श्री कनहाकडू राम पुत्र श्री सूवा है। लिहाजा इसे दुरुस्त करके राज कपूर पुत्र श्री कनहाकडू राम पुत्र श्री सूवा किया जावे।

अतः सर्वसाधारण को इस इश्तहार के माध्यम से सूचित किया जाता है कि यदि किसी व्यक्ति को इस बारे में कोई उजर / एतराज हो तो वह दिनांक 17–08–2026 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन हाजिर आकर अपना उजर / एतराज पेश कर सकता है। अन्यथा प्रार्थना–पत्र में नियमानुसार उचित आदेश पारित कर दिये जाएंगे।

आज दिनांक 06–07–2026 को मेरे हस्ताक्षर व मोहर द्वारा अदालत से जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा (हि0प्र0)।

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ब अदालत श्री रमन ठाकुर, कार्यकारी दण्डाधिकारी, बैजनाथ, जिला कांगड़ा (हि0प्र0)

मुकद्दमा नं0 : 7085144 / 2026 किस्म मुकद्दमा : दुरुस्ती तारीख पेशी : 07–08–2026

रमेश लाल पुत्र श्रीमती गीता देवी, निवासी गांव व डाकघर सेहल, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)।

बनाम

आम जनता

प्रार्थना–पत्र बराये दुरुस्ती राजस्व अभिलेख में प्रार्थी का नाम दुरुस्त करके रमेश कुमार पुत्र श्रीमती गीता देवी पुत्री श्रीमती रोहणी के बजाए रमेश लाल पुत्र श्रीमती गीता देवी पुत्री श्रीमती रोहणी दर्ज करने बारे।

रमेश लाल पुत्र श्रीमती गीता देवी, निवासी गांव व डाकघर सेहल, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) ने अदालत हजा में प्रार्थना–पत्र गुजारा है कि वह महाल सेहल, तहसील बैजनाथ में भू–स्वामी है तथा राजस्व अभिलेख में उसका नाम रमेश कुमार पुत्र श्रीमती गीता देवी पुत्री श्रीमती रोहणी है। जबकि प्रार्थी का असल नाम रमेश लाल पुत्र श्रीमती गीता देवी पुत्री श्रीमती रोहणी है। लिहाजा इसे दुरुस्त करके रमेश लाल पुत्र श्रीमती गीता देवी पुत्री श्रीमती रोहणी किया जावे।

अतः सर्वसाधारण को इस इश्तहार के माध्यम से सूचित किया जाता है कि यदि किसी व्यक्ति को इस बारे में कोई उजर / एतराज हो तो वह दिनांक 07–08–2026 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन हाजिर आकर अपना उजर / एतराज पेश कर सकता है अन्यथा प्रार्थना–पत्र में नियमानुसार उचित आदेश पारित कर दिये जाएंगे।

आज दिनांक 04–07–2026 को मेरे हस्ताक्षर व मोहर द्वारा अदालत से जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा (हि0प्र0)।

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In the Court of Dr. Ganesh Thakur, Marriage Officer-cum-Sub-Divisional Magistrate, Shahpur, Distt. Kangra (H.P.)

1. Sh. Ankush Kumar s/o Hem Raj, V.P.O. Rehli, Tehsil Shahpur, Distt. Kangra (H.P.).

2. Smt. Sangeeta Devi d/o Sh. Dharam Pal, V.P.O. Sulah, Sub-Tehsil Sulah, Distt. Kangra (H.P.) . . *Applicants.*

Versus

1. General Public.

2. Local Registrar, Gram Panchayat Rehlu . . *Respondents.*

Subject.—Application for the Marriage Registration u/s 16 of Special Marriage Act, 1954.

Sh. Ankush Kumar s/o Hem Raj, V.P.O. Rehli, Tehsil Shahpur, Distt. Kangra (H.P.) and Smt. Sangeeta Devi d/o Sh. Dharam Pal, V.P.O. Sulah, Sub-Tehsil Sulah, Distt. Kangra (H.P.) has filled an application u/s 16 of Special Marriage Act, 1954 alongwith declaration in which they have stated that they have solemnized their marriage on 25-01-2014 at V.P.O. Sulah, Sub-Tehsil Sulah, Distt. Kangra (H.P.) as per Hindu rites & customs.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding the registration of this marriage can file objection personally or in writing before this court on or before 05-08-2026. After that no objection will be entertained and marriage will be registered accordingly.

Seal. Sd/-
(Dr. GANESH THAKUR),
Marriage Officer-cum-*Sub-Divisional Magistrate,*
Shahpur, Distt. Kangra (H.P.).

In the Court of Dr. Ganesh Thakur, Marriage Officer-cum-**Sub-Divisional Magistrate, Shahpur, Distt. Kangra (H.P.)**

1. Sh. Vikalp Kaushal s/o Vijay Kumar, r/o V.P.O. Shahpur, Tehsil Shahpur, Distt. Kangra (H.P.).

2. Smt. Kanta Rani d/o Kamal Kumar, r/o Near Kali Mata Mandir Road, Patel Chowk Pathankot, Punjab . . *Applicants.*

Versus

1. General Public.
2. Local Registrar, Gram Panchayat Shahpur . . *Respondents.*

Subject.—Application for the Marriage Registration u/s 8 of registration Marriage Act, 1996.

Sh. Vikalp Kaushal s/o Vijay Kumar, r/o V.P.O. Shahpur, Tehsil Shahpur, Distt. Kangra (H.P.) and Smt. Kanta Rani d/o Kamal Kumar, r/o Near Kali Mata Mandir Road, Patel Chowk Pathankot, Punjab has filled an application u/s 8 of registration Marriage Act, 1996 alongwith declaration in which they have stated that they have solemnized their marriage on 17-02-2016 at Shiv Palace Dhaki Road Pathankot, Punjab as per Hindu rites & customs.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding the registration of this marriage can file objection personally or in writing before this court on or before 31-07-2026. After that no objection will be entertained and marriage will be registered accordingly.

Seal. Sd/-
(Dr. GANESH THAKUR),
Marriage Officer-cum-*Sub-Divisional Magistrate,*
Shahpur, Distt. Kangra (H.P.).

In the Court of Dr. Ganesh Thakur, Marriage Officer-cum-**Sub-Divisional Magistrate, Shahpur, Distt. Kangra (H.P.)**

1. Sh. Naresh Kumar s/o Sh. Duni Chand, r/o Village Noushera, P.O. Rait, Tehsil Shahpur, Distt. Kangra (H.P.).

2. Smt. Shweta d/o Sh. Jamit Singh, r/o V.P.O. Nandher, Tehsil & District Kangra (H.P.)
. . *Applicants.*

Versus

1. General Public.
2. Local Registrar, Gram Panchayat Basnoor . . *Respondents.*

Subject.—Application for the Marriage Registration u/s 16 of Special Marriage Act, 1954.

Sh. Naresh Kumar s/o Sh. Duni Chand, r/o Village Noushera, P.O. Rait, Tehsil Shahpur, Distt. Kangra (H.P.) and Smt. Shweta d/o Sh. Jamit Singh, r/o V.P.O. Nandher, Tehsil & District Kangra (H.P.) has filled an application u/s 16 of special Marriage Act, 1954 alongwith declaration in which they have stated that they have solemnized their marriage on 06-03-2026 at Shree Mansha Devi Mandir (Chamunda Mandir) as per Hindu rites & customs.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding the registration of this marriage can file objection personally or in writing before this court on or before 31-07-2026. After that no objection will be entertained and marriage will be registered accordingly.

Seal. Sd/-
(Dr. GANESH THAKUR),
Marriage Officer-cum-*Sub-Divisional Magistrate,*
Shahpur, Distt. Kangra (H.P.).

In the Court of Executive Magistrate, Chopal, District Shimla (H.P.)

Smt. Shanti Devi d/o Sh. Matha Ram, w/o Ratti Ram, r/o Badlawog, P.O. Chambi, Tehsil Chopal, District Shimla (H.P.).

Versus

General Public Tehsil Chopal

Application under section 13 (3) of Birth and Death Registration Act, 1969.

Whereas, Smt. Shanti Devi d/o Sh. Matha Ram, w/o Ratti Ram, r/o Badlawog, P.O. Chambi, Tehsil Chopal, District Shimla (H.P.) has preferred an application to the undersigned for registration of name of his/her namely Smt. Shanti Devi whose date of birth (10-10-1955) in the Gram Panchayat Nanhar, Tehsil Chopal, District Shimla (H.P.).

Therefore, by this proclamation, the General Public is hereby informed that any person having any objection for entry as to date of birth mentioned above, may submit his/her objection in

writing in this court on or before 03-08-2026 failing which no objection will be entertained after expiry of date and will be decided accordingly.

Given under my hand and seal of the court on 02-07-2026.

Seal. Sd/-
Executive Magistrate,
Chopal, District Shimla (H.P.).

In the Court of Sub-Divisional Magistrate, Rampur Bushahr, District Shimla (H.P.)

In the matter of :

Reema Devi w/o Sh. Surender Singh, r/o Village Chamada, P.O. Khamadi, Tehsil Nankhari, District Shimla, Himachal Pradesh . . *Applicant.*

Versus

General Public . . *Respondent.*

PROCLAMATION (REGARDING CORRECTION OF NAME)

Whereas, the above named applicant has submitted an application for the correction of her daughter's name from Sugun d/o Sh. Surender Singh to Shagun Kumari d/o Sh. Surender Singh in the records of Aadhar Card and all other relevant documents associated with the applicant.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding to change of applicant daughter's name as Shagun Kumari d/o Sh. Surender Singh in place of Sugun d/o Sh. Surender Singh, they should appear before the undersigned on or before 24-07-2026 either personally or through their authorized agent/pleader.

In the event of their failure to do so, order shall be passed *ex-parte* without affording any further opportunity of being heard.

Issued today on 25th day of June, 2026 under my hand and seal of the Court.

Seal. Sd/-
(HARSH AMRENDER SINGH, HAS),
Sub-Divisional Magistrate,
Rampur Bushahr, District Shimla (H.P.).

In the Court of Sub-Divisional Magistrate, Rampur Bushahr, District Shimla (H.P.)

In the matter of :

Smt. Ramila w/o Sh. Nek Ram, r/o Village Mataikli, P.O. Surad, Tehsil Nankhari, District Shimla, Himachal Pradesh . . *Applicant.*

Versus

General Public . . *Respondent.*

PROCLAMATION (REGARDING CORRECTION OF NAME)

Whereas, the above named applicant has submitted an application for the correction of her name from Neena Devi w/o Sh. Nek Ram to Ramila w/o Sh. Nek Ram in the records of Aadhar Card and all other relevant documents associated with the applicant.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding to change of applicant name as Ramila w/o Sh. Nek Ram in place of Neena Devi w/o Sh. Nek Ram, they should appear before the undersigned on or before 24-07-2026 either personally or through their authorized agent/pleader.

In the event of their failure to do so, order shall be passed *ex-parte* without affording any further opportunity of being heard.

Issued today on 25th day of June, 2026 under my hand and seal of the Court.

Seal. Sd/-
(HARSH AMRENDER SINGH, HAS),
Sub-Divisional Magistrate,
Rampur Bushahr, District Shimla (H.P.).

In the Court of Sub-Divisional Magistrate, Rampur Bushahr, District Shimla (H.P.)

In the matter of :

Smt. Meghi Devi w/o Sh. Bahadur Singh, r/o Village Sunda, P.O. Khaneri, Tehsil Rampur Bushahr, District Shimla, Himachal Pradesh . . *Applicant.*

Versus

General Public . . *Respondent.*

PROCLAMATION (REGARDING CORRECTION OF NAME)

Whereas, the above named applicant has submitted an application for the correction of her name from Megha Devi w/o Sh. Bahadur Singh to Meghi Devi w/o Sh. Bahadur Singh in the records of Aadhar Card and all other relevant documents associated with the applicant.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding to change of applicant name as Meghi Devi w/o Sh. Bahadur Singh in place of Megha Devi w/o Sh. Bahadur Singh, they should appear before the undersigned on or before 29-07-2026 either personally or through their authorized agent/pleader.

In the event of their failure to do so, order shall be passed *ex-parte* without affording any further opportunity of being heard.

Issued today on 30th day of June, 2026 under my hand and seal of the Court.

Seal. Sd/-
(HARSH AMRENDER SINGH, HAS),
Sub-Divisional Magistrate,
Rampur Bushahr, District Shimla (H.P.).

In the Court of Sub-Divisional Magistrate, Rampur Bushahr, District Shimla (H.P.)

In the matter of :

Vir Singh s/o Sh. Karam Chand, r/o Village Basahara, P.O. Kartot, Tehsil Rampur Bsr., District Shimla, Himachal Pradesh . . *Applicant.*

Versus

General Public . . *Respondent.*

PROCLAMATION (REGARDING CORRECTION OF NAME)

Whereas, the above named applicant has submitted an application for the correction of his daughter's name from Kaki d/o Sh. Vir Singh to Isha Rana d/o Sh. Vir Singh in the records of Aadhar Card and all other relevant documents associated with the applicant.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding to change of applicant daughter's name as Isha Rana d/o Sh. Vir Singh in place of Kaki d/o Sh. Vir Singh, they should appear before the undersigned on or before 29-07-2026 either personally or through their authorized agent/pleader.

In the event of their failure to do so, order shall be passed *ex-parte* without affording any further opportunity of being heard.

Issued today on 30th day of June, 2026 under my hand and seal of the Court.

Seal. Sd/-
(HARSH AMRENDER SINGH, HAS),
Sub-Divisional Magistrate,
Rampur Bushahr, District Shimla (H.P.).

In the Court of Sub-Divisional Magistrate, Rampur Bushahr, District Shimla (H.P.)

In the matter of :

Shaivee Negi d/o Sh. Sanjeev Kumar, r/o Village Suru, P.O. Koot, Tehsil Rampur Bsr., District Shimla, Himachal Pradesh . . *Applicant.*

Versus

General Public . . *Respondent.*

PROCLAMATION (REGARDING CORRECTION OF NAME)

Whereas, the above named applicant has submitted an application for the correction of her parent's name from Shivee Negi d/o Sh. Sanjeev Kumar Negi & Asha Kumari Negi to Shaivee Negi d/o Sh. Sanjeev Kumar & Asha Kumari in the records of Aadhar Card and all other relevant documents associated with the applicant.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding to change of applicant parent's name as Shaivee Negi d/o Sh. Sanjeev Kumar & Asha Kumari, they should appear before the undersigned on or before 04-08-2026 either personally or through their authorized agent/pleader.

In the event of their failure to do so, order shall be passed *ex-parte* without affording any further opportunity of being heard.

Issued today on 3rd day of July, 2026 under my hand and seal of the Court.

Seal. Sd/-
(HARSH AMRENDER SINGH, HAS),
Sub-Divisional Magistrate,
Rampur Bushahr, District Shimla (H.P.).

ब अदालत श्री अनिल कुमार, नयाब तहसीलदार / कार्याकारी दण्डाधिकारी, तहसील ननखरी, जिला शिमला (हि0प्र0)

अरविन्द मैहता पुत्र श्री प्रताप सिंह मैहता, निवासी गांव करोली, डा0 खमाडी, तहसील ननखरी, जिला शिमला (हि0 प्र0) .. प्रार्थी।

बनाम

आम जनता

Application for correction of Spelling of Name in Aadhar Card.

अरविन्द मैहता पुत्र श्री प्रताप सिंह मैहता, निवासी गांव करोली, डा0 खमाडी, तहसील ननखरी, जिला शिमला (हि0 प्र0) ने इस अदालत में प्रार्थना–पत्र गुजार कर निवेदन किया है कि उसके बेटे का नाम कृषिव मैहता (Krishiv Mehta) मुताबिक स्कूल प्रमाण–पत्र, परिवार नकल में सही व दुरुस्त है परन्तु आधार कार्ड में कृषव मैहता (Krishav Mehta) दर्ज है, जोकि गलत है।

अतः इस इश्तहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उपरोक्त नाम कृषिव मैहता (Krishiv Mehta) दुरुस्त करने बारे कोई एतराज हो तो दिनांक 25–07–2026 को सुबह 10.00 बजे असालतन व वकालतन हाजिर होकर लिखित व मौखिक एतराज पेश करें अन्यथा उजर / एतराज पेश न होने की सूरत में समझा जाए कि उपरोक्त नाम दुरुस्त करने से किसी को कोई एतराज न है।

आज दिनांक 08–07–2026 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर। हस्ताक्षरित / –
(अनिल कुमार),
नयाब तहसीलदार / कार्याकारी दण्डाधिकारी,
तहसील ननखरी, जिला शिमला (हि0प्र0)।

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ब अदालत सहायक समाहर्ता प्रथम श्रेणी, रोहडू, तहसील रोहडू, जिला शिमला (हि0प्र0)

मिसल संख्या : 7048115 / 2026 तारीख मरजुआ : 15–05–2026 तारीख फैसला : 30–06–2026

रोशन लाल पुत्र स्व0 श्री मुरत सिंह, निवासी गांव बलसा व डाकघर कांसाकोटी, तहसील रोहडू, जिला शिमला (हि0प्र0) प्रार्थी।

बनाम

आम जनता

मामला शीर्षक : राजस्व अभिलेख में नाम दुरुस्ती बारे।

दिनांक 15–05–2026 को रोशन लाल पुत्र स्व0 श्री मुरत सिंह, निवासी गांव बलसा व डाकघर कांसाकोटी, तहसील रोहडू, जिला शिमला (हि0प्र0) ने इस अदालत में प्रार्थना–पत्र गुजारा जिसमें प्रार्थी रोशन लाल ने आग्रह किया है कि उसका सही नाम रोशन लाल ही है परन्तु चक अणु व थमटाडी के राजस्व रिकार्ड में प्रार्थी का नाम जगदीश दर्ज है, जाकि गलत है। प्रार्थी के अनुसार उसका नाम राजस्व अभिलेख चक अणु, पटवार वृत्त गंगटोली व थमटाडी, पटवार वृत्त बरासली, तहसील रोहडू, जिला शिमला (हि0प्र0) में रोशन लाल किया जाना चाहिए। प्रार्थी ने अपनी दरख्वास्त के साथ नकल जमाबन्दी महाल अणु, थमटाडी, आवाहन पत्र, आधार कार्ड, परिवार नकल, पैन कार्ड व शपथ–पत्र संलग्न किये हैं। प्रार्थी चक अणु व थमटाडी में अपना नाम दुरुस्त करवाना चाहता है।

अतः इस इश्तहार के माध्यम से आम जनता को सूचित किया जाता है अगर इस नाम की दुरुस्ती बारे किसी भी व्यक्ति विशेष को उजर व एतराज हो तो असालतन या वकालतन इस अदालत में दिनांक 07–08–2026 को हाजिर या लिखित रूप में अपना एतराज पेश कर सकता है। अन्यथा एतराज पेश न होने की सूरत में आम जनता के विरुद्ध एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 04–07–2026 को मेरे हस्ताक्षर व मोहर सहित जारी हुआ।

मोहर। हस्ताक्षरित / –
सहायक समाहर्ता प्रथम श्रेणी,
रोहडू, जिला शिमला (हि0प्र0)।

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In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Bangana, District Una, Himachal Pradesh

In the matter of :

1. Sh. Sahil Sharma age 36 years s/o Sh. Chaman Lal, r/o Village Bharmout, P.O. Jasana, Tehsil Bangana, District Una (H.P.).

2. Jai Banti age 31 years d/o Sh. Paras Ram, r/o Village Chakringa, P.O. Chheur, Tehsil Bhunter, District Kullu (H.P.) . . *Applicants.*

Versus

General Public

Subject.—Application for the registration of marriage under section 15 of the Special Marriage Act, 1954 (H.P.).

Sh. Sahil Sharma s/o Sh. Chaman Lal, r/o Village Bharmout, P.O. Jasana, Tehsil Bangana, District Una (H.P.) and Jai Banti d/o Sh. Paras Ram, r/o Village Chakringa, P.O. Chheur, Tehsil Bhunter, District Kullu (H.P.) at present wife of Sh. Sahil Sharma s/o Sh. Chaman Lal, r/o Village Bharmout, P.O. Jasana, Tehsil Bangana, District Una (H.P.) have filed an application alongwith affidavits in the court of undersigned under section 15 of the Special Marriage Act, 1954 that they have solemnized their marriage on 21-10-2022 at r/o Village Bharmout, P.O. Jasana, Tehsil Bangana, District Una (H.P.) and they are living together as husband and wife since then. Hence, their marriage may be registered under section 15 of the Special Marriage Act, 1954. Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 18-08-2026 after that no objection will be entertained and marriage will be registered.

Issued today on 4th July, 2026 under my hand and seal of the court.

Seal. Sd/-
Marriage Officer-cum-*Sub-Divisional Magistrate,*
Bangana, District Una, Himachal Pradesh.

In the Court of Marriage Officer-cum**-Sub-Divisional Magistrate, Bangana, District Una, Himachal Pradesh**

In the matter of :

1. Sh. Anil Sharma age 37 years s/o Sh. Ram Kishan, r/o Village Jol, P.O. Bhaloun, Tehsil Bangana, District Una (H.P.).

2. Shobha age 32 years d/o Sh. Sunil Kumar @ Sudeshi, r/o Village Jagdishpur Imiliya, P.O. Deoria, Tehsil Allapur, District Ambedkar Nagar (U.P.) . . *Applicants.*

Versus

General Public

Subject.—Application for the registration of marriage under section 15 of the Special Marriage Act, 1954 (H.P.).

Sh. Anil Sharma s/o Sh. Ram Kishan, r/o Village Jol, P.O. Bhaloun, Tehsil Bangana, District Una (H.P.) and Shobha d/o Sh. Sunil Kumar @ Sudeshi, r/o Village Jagdishpur Imiliya, P.O. Deoria, Tehsil Allapur, District Ambedkar Nagar (U.P.) at present wife of Sh. Anil Sharma s/o Sh. Ram Kishan, r/o Village Jol, P.O. Bhaloun, Tehsil Bangana, District Una (H.P.) have filed an

application alongwith affidavits in the court of undersigned under section 15 of the Special Marriage Act, 1954 that they have solemnized their marriage on 12-07-2025 at r/o Village Jol, P.O. Bhaloun, Tehsil Bangana, District Una (H.P.) and they are living together as husband and wife since then. Hence, their marriage may be registered under section 15 of the Special Marriage Act, 1954. Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 20-08-2026 after that no objection will be entertained and marriage will be registered.

Issued today on 4th July, 2026 under my hand and seal of the court.

Seal. Sd/-

Marriage Officer-cum-*Sub-Divisional Magistrate,*
Bangana, District Una, Himachal Pradesh.

In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Bangana, District Una, Himachal Pradesh

In the matter of :

1. Sh. Sunil Dhiman age 34 years s/o Sh. Joginder Singh, r/o Village Chhaproh Khurd, P.O. Chhaproh, Tehsil Bangana, District Una (H.P.).

2. Mamta Kumari age 21 years d/o Sh. Akalu Paswan, r/o Village Dharmuhan, P.O. Jiwdhara, Tehsil Motihari, District East Champaran, Bihar . . *Applicants.*

Versus

General Public

Subject.—Application for the registration of marriage under section 15 of the Special Marriage Act, 1954 (H.P.).

Sh. Sunil Dhiman s/o Sh. Joginder Singh, r/o Village Chhaproh Khurd, P.O. Chhaproh, Tehsil Bangana, District Una (H.P.) and Mamta Kumari d/o Sh. Akalu Paswan, r/o Village Dharmuhan, P.O. Jiwdhara, Tehsil Motihari, District East Champaran, Bihar at present wife of Sh. Sunil Dhiman s/o Sh. Joginder Singh, r/o Village Chhaproh Khurd, P.O. Chhaproh, Tehsil Bangana, District Una (H.P.) have filed an application alongwith affidavits in the court of undersigned under section 15 of the Special Marriage Act, 1954 that they have solemnized their marriage on 04-05-2025 at r/o Village Chhaproh Khurd, P.O. Chhaproh, Tehsil Bangana, District Una (H.P.) and they are living together as husband and wife since then. Hence, their marriage may be registered under section 15 of the Special Marriage Act, 1954. Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 18-08-2026 after that no objection will be entertained and marriage will be registered.

Issued today on 4th July, 2026 under my hand and seal of the court.

Seal. Sd/-

Marriage Officer-cum-*Sub-Divisional Magistrate,*
Bangana, District Una, Himachal Pradesh.

ब अदालत समाहर्ता एवं उप–मण्डल अधिकारी (ना0), बंगाणा, जिला ऊना (हि0प्र0)

कुलदीप सिंह पुत्र श्री जसबन्त सिंह, निवासी महाल चंगरेडी, उप–तहसील बीहडू कलां, जिला ऊना (हि0प्र0) .. वादी।

बनाम

1. (i) (a) सुरेन्द्र कुमार, 1. (i) (b) प्रकाश चन्द, 1. (i) (c) देस राज, 1. (i) (d) बनवारी लाल पंत्रान स्व0 श्री शंकर दास, 2. (i) श्रीमती मीनाक्षी राणी, 2. (ii) कुमारी एकता पुत्रियां व 2. (iii) श्रीमती अरूणा कुमारी पत्नी श्री सुरिन्द्र कुमार, 2. (iv) श्रीमती माया पत्नी स्व0 श्री देस राम, 2. (v) योग राज पुत्र श्री बब्बू राम, सभी निवासी महाल भोटा, तहसील व जिला हमीरपुर (हि0प्र0) .. प्रतिवादीगण।

3. रमेश चन्द, 4. बलबीर सिंह पंत्रान व 5. श्रीमती कमला देवी पत्नी स्व0 श्री जसबन्त सिंह, 6. सुनील कुमार पुत्र व 6 (i) निर्मला देवी पत्नी स्व0 श्री धर्म सिंह पुत्र दीना नाथ, 7. विधि चन्द 8. रघुनाथ सिंह, 9. सुभाष चन्द, 10. केसर सिंह पुत्रान व 11. प्रकाशो देवी पुत्री श्री रूणकु पुत्र श्री महन्तू, सभी निवासी महाल चंगरेडी, उप–तहसील बीहडू कलां, जिला ऊना (हि0प्र0) .. प्रतिवादीगण।

प्रार्थना–पत्र अधीन धारा–4 खक–उल–रैहन अधिनियत 1971 (हि0प्र0)।

इश्तहार मुनादी :––

प्रतिवादीगण नं0 1. (i) (a) ता 1. (i) (d) को इस न्यायालय द्वारा उपरोक्त केस की सुनवाई हेतु बजरिया समन तलब किया गया परन्तु उनकी तामील होना न पाई गई हैं। ऐसी प्रतीत होता है कि उनकी तामील साधारण ढंग से नहीं हो सकती है। अतः अब इस इश्तहार मुनादी द्वारा प्रतिवादीगण नं0 1. (i) (a) ता 1. (i) (d) को सूचित किया जाता है कि आप इस न्यायालय में उक्त केस की सुनवाई हेतु दिनांक 07–08–2026 को बाद दोपहर 2.00 बजे असालतन या वकालतन उपस्थित होवें। अन्यथा आपके विरुध नियमानुसार कार्यवाही अमल में लाई जाएंगी।

आज दिनांक 30–06–2026 को मेरे हस्ताक्षर एवं मोहर अदालत द्वारा जारी किया गया।

मोहर। हस्ताक्षरित / –
समाहर्ता एवं उप–मण्डल अधिकारी (ना0),
बंगाणा, जिला ऊना (हि0प्र0)।

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CORRECTION OF NAME

I, Poonam Sharma w/o Sh. Dheeraj Sharma, r/o Vill. Ustehar, P.O. Panjlehar, Tehsil Nagrota Bagwan, Distt. Kangra (H.P.) declare that in the Aadhar Card No. 4308 2005 2470 of my son his name is entered as Aarush, whereas his correct name is Arsh Sharma, which is entered correctly in his Birth record and Bonafide Certificate.

POONAM SHARMA
w/o Sh. Dheeraj Sharma,
r/o Vill. Ustehar, P.O. Panjlehar,
Tehsil Nagrota Bagwan, Distt. Kangra (H.P.).

CHANGE OF NAME

I, Manasvi Singh aged about 18 years d/o Sh. Dinesh Steta, r/o Vill. Bateori, P.O. Kedi, Tehsil Nerwa, Distt. Shimla (H.P.)-171 210 declare that I have changed my name from Manasvi Singh (Old Name) to Manasvi Steta (New Name). All concerned please may note.

MANASVI SINGH
d/o Sh. Dinesh Steta,
r/o Vill. Bateori, P.O. Kedi,
Tehsil Nerwa, Distt. Shimla (H.P.)-171 210.

CORRECTION OF NAME

I, Anju Kumari w/o No. 2497052X Hav. Gopal, r/o Vill. Khajurti, P.O. Cholangarh, Tehsil Sandhole, Distt. Mandi (H.P.) declare *vide* affidavit dated 18-06-2026 before Executive Magistrate, Sandhole (H.P.) that in my husband's army service record my name has been wrongly entered as Anjana Kumari, whereas my correct name is Anju Kumari. All note please.

ANJU KUMARI
w/o Hav. Gopal,
r/o Vill. Khajurti, P.O. Cholangarh,
Tehsil Sandhole, Distt. Mandi (H.P.).

CHANGE OF NAME

I, Pankaj (New Name) s/o Sh. Mau Ram, r/o Vill. Jhoked, P.O. Jhoked, Tehsil Kupvi, Distt. Shimla (H.P.)-171 217 declare that I have changed my name from Rahul (Old Name) to Pankaj (New Name). All concerned please may note.

PANKAJ
s/o Sh. Mau Ram,
r/o Vill. Jhoked, P.O. Jhoked,
Tehsil Kupvi, Distt. Shimla (H.P.)-171 217.

CHANGE OF NAME

I, Priyanka Negi w/o Sh. Sikender Singh, V.P.O. Devidhar, Tehsil Chirgaon, Distt. Shimla (H.P.) declare that name of my son Shreyansh Singh Negi is wrongly mentioned as Baby one of Priyanka in his Aadhar Card. Therefore, it should be changed to Shreyansh Singh Negi in his Aadhar Card. All concerned please may note.

PRIYANKA NEGI
w/o Sh. Sikender Singh,
V.P.O. Devidhar,
Tehsil Chirgaon, Distt. Shimla (H.P.).

CORRECTION OF NAME

I, Nishant Sharma s/o Sh. Chander Prakash, r/o Vill. Dansa, P.O. Dansa, Tehsil Rampur Bsr., Distt. Shimla (H.P.), my daughter's name is wrongly mentioned as Aronika Sharama in Aadhar Card, Birth Certificate and other relevant official records. Correct name is Arnika Sharma. The name Arnika Sharma should be corrected.

NISHANT SHARMA
s/o Sh. Chander Prakash,
r/o Vill. Dansa, P.O. Dansa,
Tehsil Rampur Bsr., Distt. Shimla (H.P.).

CORRECTION OF NAME

I, Amar Singh s/o Sh. Surat Ram, r/o Vill. Deothi, P.O. Deothi, Sub-Tehsil Taklech, Distt. Shimla (H.P.), in my daughter's Aadhar Card her name Senha is wrongly mentioned as per Himachali Bonafide Certificate and panchayat record. Sneha name is correct. The name Sneha should be corrected.

AMAR SINGH
s/o Sh. Surat Ram,
r/o Vill. Deothi, P.O. Deothi,
Sub-Tehsil Taklech, Distt. Shimla (H.P.).

CORRECTION OF NAME

I, Santosh Kumar s/o Sh. Parmeshwar Dayal, r/o PWD Colony, P.O. Tanda, Tehsil Kangra, Near Medical College Division, H.P. PWD Tanda (H.P.) hereby inform that the name of my minor daughter Shanvi Dayal was wrongly written in her Aadhar Card, which should be corrected and written as Ishanvi Dayal.

SANTOSH KUMAR
s/o Sh. Parmeshwar Dayal,
r/o PWD Colony, P.O. Tanda,
Tehsil Kangra, Near Medical College Division,
H.P. PWD Tanda (H.P.).

CORRECTION OF NAME

I, Ambika Sharma w/o Sh. Vinod Kumar Sharma, r/o Vill. Goyal, P.O. Kapahara, Tehsil Ghumarwin, Distt. Bilaspur (H.P.) declare that my name is wrongly recorded in my Aadhar Card No. 2932 5434 4494 as Ambey Kumari. Whereas, my correct name is Ambika Sharma. Ambika Sharma and Ambey Kumari is same women. All concerned note.

AMBIKA SHARMA
w/o Sh. Vinod Kumar Sharma,
r/o Vill. Goyal, P.O. Kapahara,
Tehsil Ghumarwin, Distt. Bilaspur (H.P.).

CORRECTION OF NAME

I, Urmala Devi w/o Sh. Tulsi Ram, r/o Vill. Bhuana, Ward No. 2, P.O. Bharwana, Tehsil Panchrukhi, Distt. Kangra (H.P.) declare that my correct name is Urmala Devi in all records but in my Aadhar Card my name has been wrongly entered as Urmila Devi. Urmala Devi and Urmila Devi is the name of one and same lady. All concerned be noted.

URMALA DEVI
w/o Sh. Tulsi Ram,
r/o Vill. Bhuana, Ward No. 2, P.O. Bharwana,
Tehsil Panchrukhi, Distt. Kangra (H.P.).

CHANGE OF NAME

I, Shanti Kiran w/o Sh. Ram Ratan, r/o House No. 54, Vill. Balyana, P.O. Barotiwala, Tehsil Baddi, Distt. Solan (H.P.)-174 103. I have changed my name to Mukhatayari.

SHANTI KIRAN
w/o Sh. Ram Ratan,
r/o House No. 54, Vill. Balyana, P.O. Barotiwala,
Tehsil Baddi, Distt. Solan (H.P.)-174 103.

CORRECTION OF NAME

I, Judhiya Devi w/o Sh. Kishori Lal, r/o Vill. Ghatta, P.O. Dhamer, Tehsil & Distt. Kangra (H.P.) declare to correct my name from Ajudhya Devi to Judhiya Devi in my Aadhar Card. Concerned note.

JUDHIYA DEVI
w/o Sh. Kishori Lal,
r/o Vill. Ghatta, P.O. Dhamer,
Tehsil & Distt. Kangra (H.P.).

CHANGE OF NAME

I, Gagan Pradeep s/o Sh. Bhanu Dutt Sharma, r/o House No. 43, Ward No. 6, Gandhi Gate Hamirpur, Tehsil & Distt. Hamirpur (H.P.) declare that I have changed my minor daughter's name from Aditi to Aditi Sharma. She shall be known as Aditi Sharma for all purposes in future. All concerned please note.

GAGAN PRADEEP
s/o Sh. Bhanu Dutt Sharma,
r/o House No. 43, Ward No. 6,
Gandhi Gate Hamirpur,
Tehsil & Distt. Hamirpur (H.P.).

CORRECTION OF NAME

I, Saurabh Sharma s/o Sh. Ashok Kumar, r/o Village Mangul, P.O. & Tehsil Galore, Distt. Hamirpur (H.P.) declare that my name is wrongly entered as Sourav Sharma in my Aadhar Card. Now, I intend to correct my name as Saurabh Sharma in Aadhar Card. Concerned note it.

SAURABH SHARMA
s/o Sh. Ashok Kumar,
r/o Village Mangul,
P.O. & Tehsil Galore,
Distt. Hamirpur (H.P.).

CORRECTION OF NAME

I, Vijender Singh s/o Sh. Akbar Singh, Village Janglikh, P.O. Tangnu, Tehsil Chirgaon, Distt. Shimla (H.P.) declare that name of my daughter Anavi Shauntu is wrongly mentioned as Nivi in her Aadhar Card. Therefore, it should be changed to Anavi Shauntu in her Aadhar Card. All concerned please may note.

VIJENDER SINGH
s/o Sh. Akbar Singh,
Village Janglikh, P.O. Tangnu,
Tehsil Chirgaon, Distt. Shimla (H.P.).

CHANGE OF NAME

I, BK Suman d/o Sh. Prem Chand, r/o Village Majhwar, P.O. Jalpehar, Tehsil Joginder Nagar, Distt. Mandi (H.P.) declare that I have changed my name from BK Suman to Suman. Concerned note.

BK SUMAN
d/o Sh. Prem Chand,
r/o Village Majhwar, P.O. Jalpehar,
Tehsil Joginder Nagar, Distt. Mandi (H.P.).

CORRECTION OF NAME

I, Mahinder Singh s/o Sh. Sher Singh, r/o Village Shillanaal, P.O. Bharai, Tehsil & Distt. Kullu (H.P.) declare that my daughter's name is wrongly entered as Shanu in her Aadhar Card. Now, I Intend to correct my daughter's name as Sharnu in Aadhar Card. Concerned note it.

MAHINDER SINGH
s/o Sh. Sher Singh,
r/o Village Shillanaal, P.O. Bharai,
Tehsil & Distt. Kullu (H.P.).

CHANGE OF NAME

I, Kaushlya Devi w/o Sh. Sanjeev Kashyap, r/o H. No. 2372/9, Mohalla Ranital, Near Jain Mandir, Tehsil Nahan, District Sirmaur (H.P.)-173 001 have changed my name from Kaushlaya Devi (Old Name) to Kaushlya Devi (New Name). All concerned please may note.

KAUSHLYA DEVI
w/o Sh. Sanjeev Kashyap,
r/o H. No. 2372/9, Mohalla Ranital, Near Jain Mandir,
Tehsil Nahan, District Sirmaur (H.P.)-173 001.

CHANGE OF NAME

I, Kishan Chand s/o Sh. Sangat Ram, r/o Village Chamras, P.O. Ghaniar, Tehsil Balichowki, Distt. Mandi (H.P.) have changed my son's name from Jitender Kumar to Jutender for all purposes. Concerned note it.

KISHAN CHAND
s/o Sh. Sangat Ram,
r/o Village Chamras, P.O. Ghaniar,
Tehsil Balichowki, Distt. Mandi (H.P.).

CHANGE OF NAME

I, Labloo s/o Sh. Hukam Chand, Village & P.O. Pekha, Tehsil Chirgaon, Distt. Shimla (H.P.) declare that name of my daughter Aditi Fishta is wrongly mentioned as Kakai in her Aadhar Card. Therefore, it should be changed to Aditi Fishta in her Aadhar Card. All concerned please may note.

LABLOO
s/o Sh. Hukam Chand,
Village & P.O. Pekha,
Tehsil Chirgaon, Distt. Shimla (H.P.).

CORRECTION OF NAME

I, Sunil s/o Sh. Fandiya Ram, r/o Village Majholi, Tehsil Kupvi, Distt. Shimla (H.P.) declare that my daughter's name has been wrongly entered in her Aadhar Card as Minashi, whereas, her correct name is Minakshi. All concerned please may note.

SUNIL
s/o Sh. Fandiya Ram,
r/o Village Majholi,
Tehsil Kupvi, Distt. Shimla (H.P.).

CORRECTION OF NAME

I, Moti Oli w/o Sh. Lil Bahadur Oli, r/o Tara Bhawan Kanlog, Tehsil & Distt. Shimla (H.P.) declare that my daughter's name has been wrongly entered in her Aadhar Card as Heera. Whereas, her correct name is Heera Oli. All concerned please may note.

MOTI OLI
w/o Sh. Lil Bahadur Oli,
r/o Tara Bhawan Kanlog,
Tehsil & Distt. Shimla (H.P.).

CHANGE OF NAME

I, Anoop Verma s/o Sh. Chain Singh, r/o Village Har, P.O. Nalti, Tehsil & District Hamirpur (H.P.) declare that I have changed my name from Kishore Chand to Anoop Verma. I shall be known as Anoop Verma for all purposes in future. All concerned please note.

ANOOP VERMA
s/o Sh. Chain Singh,
r/o Village Har, P.O. Nalti,
Tehsil & District Hamirpur (H.P.).

CHANGE OF NAME

I, Jatinder Singh s/o Sh. Bhupinder Singh, r/o Village and P.O. Jharet Jagian, Tehsil Palampur, District Kangra (H.P.)-176 060 declare that I have changed my name in my Aadhar Card No. 3138 9693 5653 from Jeetender Sephya to Jatinder Singh. Whereas my correct name is Jatinder Singh. All concerned may note.

JATINDER SINGH
s/o Sh. Bhupinder Singh,
r/o Village and P.O. Jharet Jagian,
Tehsil Palampur, District Kangra (H.P.)-176 060.

CHANGE OF NAME

I, Sudershna Bhandari w/o Sh. Som Raj Bhandari, r/o Near S.S. School, V.P.O. Nerwa, Distt. Shimla (H.P.) declare that my name in birth record of my son namely Harshit Bhandari, is wrongly entered as Kiran. But my actul name is Sudershna Bhandari. I want to correct the name from Kiran to Sudershna Bhandari in my son's birth record.

SUDERSHNA BHANDARI
w/o Sh. Som Raj Bhandari,
r/o Near S.S. School,
V.P.O. Nerwa, Distt. Shimla (H.P.).

CHANGE OF NAME

I, Nishant Thakur s/o Sh. Mohan Lal, r/o Village Thana Dhar, P.O. Bhuira, Tehsil Rajgarh, Distt. Sirmaur (H.P.) do hereby declare that I have changed my name from Nishant to Nishant Thakur. All concerned please note.

NISHANT THAKUR
s/o Sh. Mohan Lal,
r/o Village Thana Dhar, P.O. Bhuira,
Tehsil Rajgarh, Distt. Sirmaur (H.P.).

CHANGE OF NAME

I, Harish Kumar s/o Sh. Mahender Singh, r/o VTC Bhamrara (911), P.O. Bhojnagar, Distt. Solan (H.P.) declare that I have changed my minor daughter's name from Baby one of Pushpa Bhatti to Ritika Thakur. Please note all concerned for further.

HARISH KUMAR
s/o Sh. Mahender Singh,
r/o VTC Bhamrara (911),
P.O. Bhojnagar, Distt. Solan (H.P.).

CHANGE OF NAME

I, Neelam d/o Sh. Inder Singh, r/o Kanog Dhandhdei (66), Sirmaur (H.P.) declare that I have changed my name from "Neelam" to Raksha Devi. Please note all concerned for further.

NEELAM
d/o Sh. Inder Singh,
r/o Kanog Dhandhdei (66),
Sirmaur (H.P.).

CHANGE OF NAME

I, Giano s/o Sh. Chamaru, Village Dharmari, P.O. Kuphara, Tehsil/Distt. Chamba (H.P.) hereby declare that my name Gian Chand is wrongly entered in my Aadhar Card. Correct name is Giano as per Pariwar Nakal (G.P. Kolka). Please note.

GIANO
s/o Sh. Chamaru,
Village Dharmari, P.O. Kuphara,
Tehsil/Distt. Chamba (H.P.) .

नियन्त्रक, मुद्रण तथा लेखन सामग्री, हिमाचल प्रदेश, शिमला–5 द्वारा मुद्रित तथा प्रकाशित
इलेक्ट्रॉनिक हस्ताक्षरित राजपत्र, वैबसाइट https://rajpatra.hp.gov.in पर उपलब्ध है एवम् ऑनलाइन सत्यापित किया जा सकता है।