



d h r u v a

LITIGATION ALERT

October 28, 2025

Supreme Court lays down parameters to
determine employer-employee relationship

Supreme Court lays down parameters to determine employer-employee relationship

General Manager, U.P. Cooperative Bank Ltd. vs. Achchey Lal & Anr.¹

Supreme Court allowed the appeal filed by the U.P. Cooperative Bank (Bank/Appellant) against the Allahabad High Court² judgment and held that Bank was not the employer of canteen workers employed by the employee Society.

The High Court dismissed all the writ petitions filed by the Bank against order of the Labour Court which held that all the four workmen (Respondents) were in employment of the Bank whose services were illegally terminated and directed reinstating them in service with back wages.

Background and Facts

- To provide canteen facility to its members, the employees of the Bank formed a Society registered under the provisions of the Cooperative Societies Act, 1912 named as the “U.P. Cooperative Bank Employees Society Limited”.
- The Respondents were appointed by the Society as its employees.
- The Society decided not to run the canteen on account of Bank’s refusal to enhance subsidies and terminated the Respondents’ services which led to an industrial dispute. The dispute was referred by the State Government to the Labour Court for adjudication.
- High Court held that there was master servant relationship between the employees of the canteen and the Bank and relied upon its own decision³. The High Court weighed in following factors:

- 75% wages of the persons engaged in the Canteen would be borne by the Bank whereas 25% contributed by the Society.
- the subsidy payable to the Canteen was enhanced by the Bank by 30%
- The Respondents continued to work in the Canteen under the supervision of the Society.
- The financial assistance was given by the Bank and the working hours and working days of the Canteen were also as per the Bank’s regulations.

Discussion and Findings

- The relevant factors to be taken into consideration to establish employer/employee relationship would include:
 - who appoints the workers.
 - who pays the salaries/remuneration.
 - who has the authority to dismiss.
 - who can take disciplinary action.
 - whether there is continuity of service and
 - extent of control and supervision.
- The Bank might have played a pivotal role in setting up of the Canteen by providing the necessary infrastructure, finance, subsidies but there is nothing to indicate that the Bank had a direct role to play in managing the Canteen affairs which was left absolutely to the Society.
- The Society had almost 1,000 employees, own Committee of office bearers and to avail the

¹ Civil Appeal No. 2974/2016

² Writ Petition Nos.3932/2000, 3935/2000, 3933/2000, 3937/2000 and 2413/2006

³ Indian Overseas Bank v. I.O.B. Staff Canteen Workers' Union and Another [(2000) 4 SCC 245]

facilities of canteen, constituted a Committee who took up the issue with the Bank.

- There is no merit in the Respondents' submission that canteen employees of every establishment have to be considered as part of the establishment:
 - Similar argument was rejected by this Court⁴ wherein it was pointed out that everything would depend upon the facts of a particular case.
 - The nature and character of management, and the interest shown by them in having control and supervision over the running of the canteen also has to be considered.
 - The Bank only discharged an obligation to provide a facility and had nothing to do with the working of the canteen.
 - Thus, by no stretch of imagination, it can be said that the canteen staff is also part of the establishment, i.e., the Bank.

Judgment

- It is essential to apply various tests to determine the existence of employer-employee relationship.
- Control Test:
 - The control test postulates that an employer-employee relationship is established when the hirer has control over (i) the work assigned and (ii) the manner in which it is to be done.
 - Control test was expanded to mean due control and supervision. In numerous cases⁵, the degree and level of control required would depend on the facts and circumstances of each case.
- Organisation (Integration) Test:
 - Recognising that modern workplaces often involve skilled and professional labour beyond direct supervision, the Supreme Court referred to its own decision⁶ which introduced the Integration Test.

- This test examines whether the worker's role is integrated into the core operations of the employer's business. The higher the integration, the stronger the presumption of an employment relationship.
- The Court observed that this test complements the control test, particularly in specialised sectors, and reflects a shift from the rigid master-servant model toward a more holistic assessment.

- Multiple Factor Test

- Moving beyond single-factor analyses, the Court endorsed the Multifactor Test, which considers a combination of indicators such as:
 - Control and supervision
 - Ownership of tools and equipment
 - Degree of integration with the employer's business
 - Possibility of profit and risk of loss
 - Power to hire or dismiss
 - Payment of wages
 - Master's right to control the method of doing the work, and
 - Master's right of suspension or dismissal.

- Refinement of the Multifactor Test:

- This Court revisited the distinction between a contract 'of service' and a contract 'for service'⁷. Priority was given to factors of control and mode of remuneration, noting these would ordinarily suffice to identify the true nature of the relationship unless other contractual terms indicated otherwise.
- Thus, the multifactor test was reiterated, consisting of the following:
 - Control over the work and manner in which it is conducted.
 - Level of integration into employers' business.

⁴ Employees in relation to Punjab National Bank v. Ghulam Dastagir (1978-1-LLJ-312) (SC)

⁵ The control test adopted in Dharangadhara Chemical Works Ltd. v. State of Saurashtra [(1957) 1 LLJ 477] remained the sole factor for determining employer-employee relationship

⁶ Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments [(1974) 3 SCC 498]

⁷ Sushilaben Indravadan Gandhi v The New India Assurance Company Limited [(2021) 7 SCC 151]

- Manner in which remuneration is disbursed to workers.
 - Economic control over workers.
 - Whether work being conducted is for oneself or a third party.
- The Labour Court as well as the High Court committed an egregious error in taking the view that the Respondents could be termed as employees of the Bank, entitled to be reinstated with full back wages upon termination in accordance with the provisions of the Industrial Disputes Act.
- The appeals succeed and are hereby allowed. Consequently, the Award passed by the Labour Court is set-aside.

DHRUVA INSIGHT

Supreme Court decision lays down four tests for determining employer-employee relationship viz. (i) Control Test, (ii) The Organisation (Integration) Test, (iii) The Multiple Factor Test and (iv) The Refined Multifactor Test.

It is relevant to note that in case of secondment of employees by overseas group company, the Indian entities were not paying service tax on the premise that it is a dual employment arrangement. However, the said position was unsettled by the Supreme Court in the year 2022, in the case of Northern Operating Systems Pvt. Ltd. (NOS) and held that secondment of employees is liable to service tax under reverse-charge as manpower supply.

Subsequent to the said judgment, numerous notices were issued by authorities in the GST regime. CBIC thereafter issued an Instruction No. 05/2023-GST dated December 13, 2023, directing that SC ruling in NOS should not be applied mechanically and each case be assessed individually based on its own facts.

The present Supreme Court judgment deals with cases under Industrial Disputes Act, Factories Act, etc. Court's observation that determination of an employer-employee relationship depends on the facts of each case and no single test is conclusive, will hold persuasive value under GST regime.

ADDRESSES

Mumbai

1101, One World Centre,
11th Floor, Tower 2B,
841, Senapati Bapat Marg,
Elphinstone Road (West),
Mumbai – 400 013
Tel: +91 22 6108 1000 / 1900

Ahmedabad

402, 4th Floor, Venus Atlantis, 100
Feet Road, Prahlad Nagar,
Ahmedabad – 380 015
Tel: +91 79 6134 3434

Bengaluru

Lavelle Road, 67/1B,
4th Cross, Bengaluru,
Karnataka – 560001
Tel: +91 90510 48715

Delhi / NCR

305-307, Emaar Capital Tower-1,
MG Road, Sector 26, Gurgaon
Haryana – 122 002
Tel: +91 124 668 7000

New Delhi

1007-1008, 10th Floor, Kailash
Building, KG Marg, Connaught Place,
New Delhi – 110001
Tel: +91 11 4471 9513

GIFT City

Dhruva Advisor IFSC LLP
510, 5th Floor, Pragya II,
Zone-1, GIFT SEZ, GIFT City,
Gandhinagar – 382050, Gujarat.
Tel: +91 7878577277

Pune

305, Pride Gateway,
Near D-Mart, Baner,
Pune – 411 045
Tel: +91 20 6730 1000

Kolkata

4th Floor, Camac Square,
Unit No. 403 & 404B,
Camac Street,
Kolkata - 700016, West Bengal
Tel: +91-33-66371000

Singapore

Dhruva Advisors Pte. Ltd.
#16-04, 20 Collyer Quay,
Singapore – 049 319
Tel: +65 9144 6415

Abu Dhabi

Dhruva Consultants
1905 Addax Tower,
City of Lights, Al Reem Island,
Abu Dhabi, UAE
Tel: +971 26780054

Dubai

Dhruva Consultants
Emaar Square Building 4,
2nd Floor, Office 207, Downtown,
Dubai, UAE
Tel: +971 4 240 8477

Saudi Arabia

Dhruva Consultants
308, 7775 King Fahd Rd,
Al Olaya, 2970,
Riyadh 12212, Saudi Arabia

KEY CONTACTS

Dinesh Kanabar

Chairman & CEO
dinesh.kanabar@dhruvaadvisors.com

Ranjeet Mahtani

ranjeet.mahtani@dhruvaadvisors.com

Jignesh Ghelani

jignesh.ghelani@dhruvaadvisors.com

Kulraj Ashpnani

kulraj.ashpnani@dhruvaadvisors.com

Disclaimer:

The information contained herein is in summary form and is therefore intended for general guidance only. This publication is not intended to address the circumstances of any particular individual or entity. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. This publication is not a substitute for detailed research and professional opinions. Before acting on any matters contained herein, reference should be made to subject matter experts, and professional judgment needs to be exercised. Dhruva Advisors India Private Limited cannot accept any responsibility for loss occasioned to any person acting or refraining from acting as a result of any material contained in this publication