
(2009) 03 P&H CK 0053
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 13037 of 2008

Court on its own motion

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 17-03-2009

Acts Referred:

Citation : (2009) 2 RCR(Civil) 384 : (2009) 2 RCR(Criminal) 340

Hon'ble Judges : Tirath Singh Thakur, C.J.; Hemant Gupta, J

Bench : Division Bench

Advocate : Ranjan Lakhanpal, for the Appellant; H.S. Sidhu, Additional Advocate General, for the Respondent

Judgement

Hemant Gupta, J.—The present writ petition was taken up in public interest on the basis of a complaint from 14 convicts, Pakistani Nationals confined in Central Jail, Patiala, in respect of non payment of their monthly wages.

2. The grievance of the said convicts is that they have no finances and are facing great hardship as they have no relative in India who may come to meet them. It is alleged that they have not been paid their monthly wages for the years from 2003-2007. Learned District & Sessions, Patiala, was asked to look into the matter and to submit report within a week. It was found that convicts at serial No. 9 and 11 have been released from jail. Mohd. Aslam mentioned at serial No. 12 was convicted only on 16.07.2007. It was also reported that wages upto 2003 have been paid to them whereas the amount due for the years 2004 and 2005 is under process and will be paid to them shortly. During the year 2006 and 2007, these undertrials had done no work and, therefore, no wages are due to them. It was further stated that all the convicts of the indicated category are kept in a security block due to security reasons and they are performing duty of one hour daily approximately but wages can only be given if they perform the work for at least 8 hours a day.

3. Superintendent, Central Jail, Patiala, also filed an affidavit pointing out that

wages for the year 2004-05 have already been disbursed, whereas no wages have been given to Pakistani Nationals since January 2006. It was averred that such Pakistani Nationals are not performing any duty other than cleaning their cells and surroundings. Wages can only be given to the prisoners if they perform their full task of at least eight hours per day. As per Jail Manual and Reorganization of Punjab Jail Industries "Earning Scheme", there is no reference regarding wages to be paid to the inmates who work less than eight hours. It has been further pointed out that the Director General of Police (Prisons), Punjab, Chandigarh, in its letter dated 30.05.2008 has advised that the Pakistani/Afghani prisoners should not be allowed to work in the Jail factory for security reasons. They have been advised to be kept in separate blocks. Therefore, foreign nationals are lodged in separate blocks and are not sent to Jail factory for work during to security reasons. It has been further pointed out that almost half the population of the convict prisoners was not provided work due to shortage of raw material and other resources but the Welfare Wing in the prison take care of daily needs of the prisoners. It was further pointed out that needy prisoners are provided things free of costs out of the Prisoners Welfare Fund.

4. From the perusal of the reply and the documents filed, it is apparent that all the convicts lodged in the Central Jail, Patiala, are not provided with work to enable them to earn wages. Such convicts include Indian National as well. It could not be pointed out by Mr. Lakhanpal that there is any mandatory provision in the Jail Manual creating obligation on the jail authorities to provide work to the convicts. In the absence of any mandatory duty on the part of the jail authorities to provide work, it cannot be said that any prison right of the convicts has been violated by the jail authorities. It is for the jail authorities to engage the convicts in the best possible manner so as to channelise human resource available to them in a positive and constructive way.

5. However, Pakistani Nationals are not permitted to work in the Jail factory on the basis of intelligence report. Such concern of national security cannot be interfered with by this Court. But jail authorities would be well advised to examine the ways and means to engage Pakistani Nationals to work even in the security block created for them without permitting such foreign nationals to mix with Indian prisoners. The long incarceration of foreign nationals in jail is likely to affect their mental faculties. It is also said that empty mind is devil's mind. Therefore, the jail authorities would be well advised to engage such foreign nationals in some work or the other, as they consider appropriate, within their own security blocks keeping in view national security.

With the aforementioned direction, writ petition stands disposed of.