
(2000) 11 P&H CK 0185
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 741 of 1997

General Manager, Punjab Roadways, Ropar	APPELLANT
Vs	
Swaran Singh, Conductor	RESPONDENT

Date of Decision : 27-11-2000

Acts Referred:

Payment of Wages Act, 1936 — Section 15, 15(2), 15(3), 7

Citation : (2001) 90 FLR 724 : (2001) 2 LLJ 834

Hon'ble Judges : S.S. Sudhalkar, J; Mehtab S. Gill, J

Bench : Division Bench

Advocate : Mr. Anil Sharma, Deputy A.G, for the Appellant; Mr. R.S. Ahluwalia, for the Respondent

Judgement

Mehtab S. Gill, J.—By this common judgment, we are disposing of Civil Revision Petitions bearing Nos. 741 and 742 of 1997 collectively as the point involved therein is identical in nature. For the sake of convenience, the facts are being extracted from Civil Revision petition No. 741 of 1997.

2. Briefly stated, the facts of the case are that Swaran Singh was employed as a Conductor under the Punjab Roadways, i.e., the General Manager, Punjab Roadways, Ropar (petitioner herein), which is an industrial establishment engaged in the business of transportation of passengers. It is governed by the provisions of the Payment of Wages Act, 1936 (hereinafter referred to as "the Act"). Respondent-Swaran Singh approached the petitioner to fix his pay as he was being paid less. The petitioner informed him that his increments had been stopped by orders on different dates. Respondent approached the Assistant Labour Com-mission-cum-Authority under the Payment of Wages Act and filed an application u/s 15(2) of the Act for issuing direction u/s 15(3) of the Act for refund of the delayed/deducted wages from his salary. It has been further stated that the orders passed were illegal, arbitrary and unconstitutional as these were never communicated to him and were passed without good cause. The orders were non-speaking; no opportunity of hearing was given to him and no enquiry

was conducted before passing all these orders.

3. The respondent (petitioner herein) filed written statement taking up the preliminary objection that the petition is not maintainable being barred by time. The employment of the workman is admitted. It is also admitted that the Punjab Roadways is an Industrial establishment and is governed by the provisions of the Act. It is further admitted by the respondent that the impugned orders vide which increments were stopped, were passed by the competent Authority.

4. On the pleadings of the parties, issues were framed and evidence was led by both the parties in support of their claim. After scrutinising the pleadings and the evidence available on record, the Authority under the Payment of Wages Act passed the order dated July 29, 1994, concluding part of which is reproduced as under :-

"In view of my foregoing findings, the petition succeeds. Accordingly, I direct the respondent to pay to the petitioner the wages to which he would have been entitled but for the passing of the impugned orders for a period of twelve months preceding the presentation of this petition. File be consigned to the Record Room."

5. Against the aforesaid order dated July 29, 1994 passed by the Authority under the Payment of Wages Act, the respondent-General Manager, Punjab Roadways, preferred an appeal before the learned Additional District Judge, Ropar. who dismissed the same.

6. Aggrieved against this order, the State of Punjab has filed these Civil Revision Petitions in this Court and it has been averred that the lower Appellate Court did not take into consideration the various decisions passed by the Apex Court.

7. The matter came up before T.H.B. Chalapathi, J. (as His Lordship then was), who passed the order dated May 15, 1998 vide which, he referred the matter to a Division Bench of this Court for adjudication. The reference order reads as under :-

"These Civil Revision Petitions have been filed against the orders of the Additional District Judge, Ropar, in two Civil Appeals Nos. 216 of 1996 and 75 of 1994 dated September 9, 1996.

8. The respondents in these revision petitions filed applications u/s 15(2) of the Payment of Wages Act for refund of the delayed/deducted wages. It is argued by the learned A.A.G., Punjab that by several orders, the increments of the respondents have been withheld with cumulative effect and those orders have been passed by the competent authority after following the procedure prescribed under the rules. Therefore, the petitioner is not entitled to get any relief before the authority under the Payment of Wages Act, unless the orders imposing punishment have been set aside in a proper forum. The learned State counsel argued that it is not open to the authority under the Act to go into the legality of the withholding the annual increment. The finding of the authority that the

increments have been illegally withheld which has been confirmed by the Additional District Judge, Ropar, is without jurisdiction. Learned counsel for the respondents contended that the authorities under the Payment of Wages Act can decide whether deduction from the wages is illegal and it is once found that it is illegal or unlawful, the authority can award the wages which are legally due. He relied upon a decision of this Court in *General Manager, Juttunder v. Nanak Singh* reported in 1987(4) SLR 750 wherein the learned Single Judge of this Court (held) as follows:

"When no reasons were assigned for withholding increments of the respondent vide order dated 6.8.1982, it cannot be said that his increment was withheld for good and sufficient cause. Therefore, I find that the authority under the Act was within its jurisdiction to hold that the order dated 6.8.1982 was invalid, had to be ignored and the direction of the arrears in pursuance thereof were ordered to be paid to respondent No. 4."

9. I am unable to agree with this reasoning given by the learned Single Judge. The employee has been awarded punishment of withholding the increments in a departmental enquiry. It cannot be said that it is illegal within the meaning of Payment of Wages Act. As long as the orders imposing punishment are in force, it cannot be said that the authority under the Act has got jurisdiction to award the wages ignoring the orders of punishment passed by a competent authority. When there is an order of the competent authority withholding the increments, it cannot be said that the increments were illegally withheld. Those orders have to be set aside in a departmental appeal or in a civil suit. Under explanation II to Section 7 of the Payment of Wages Act, any loss of wages resulting from the imposition of withholding of increment for good and sufficient cause shall not be deemed to be a deduction from wages. The authority cannot go into the question whether the punishment is imposed for good and sufficient cause. The order itself has to be taken on its face when punishment is provided under the rules framed by the employer. Further, in the instant case, the penalties of withholding the increments have been passed on 14.8.1970, 19.4.1971, 21.5.1973, 12.7.1973, 22.11.1973, 15.7.1973 in Civil Revision No. 741 of 1997 and during 1978 to 1982 in Civil Revision No. 742 of 1997, whereas the application for payment of wages on the ground of illegal deductions, were made only in the year 1992 and 1990 respectively. Prima facie, I am of the view that the authority under the Payment of Wages Act cannot go into the validity of the order passed by the competent authority imposing the penalty. Reference to the decision of Rajasthan High Court reported in *Jasjit Singh v. Authority under the Payment of Wages Act* 1988(2) SLR 441 may also be made wherein it has been held that in view of the limited scope of Section 15(2) of the Payment of Wages Act, the authority under the Act has no jurisdiction to go into the validity of the order of dismissal.

As the question involved in these two revision petitions is an important one, I am of the opinion that this is a fit case for referring to a Division Bench for an

authoritative pronouncement. Let the papers be placed before my Lord the Chief Justice for appropriate orders."

10. Consequent upon the order dated May 15, 1998 passed by T.H.B. Chalapathi, J. (as His Lordship men was), Civil Revision Petitions came upon for hearing before us.

11. At the very outset, learned counsel for the State placed before us the decision rendered by the Hon'ble Supreme Court in Civil Appeal No. 2550 of 1988 (The State of Punjab and another v. Karam Singh) decided on November 26, 1997, wherein the Apex Court has held that the orders passed by the Authority under the Payment of Wages Act are legal and binding upon the parties qua stoppage of increments with cumulative effect. The order passed by the Hon'ble Supreme Court is reproduced as under:

"The respondent who was a workman of the appellants, was placed under suspension on 20.1.1979. After enquiry an order of punishment was passed ordering stoppage of 3 increments with cumulative effect.

The respondent moved the Authority under the Payment of Wages Act u/s 15 of the said Act for payment of the amount so withheld. The application of the respondent was dismissed by the Authority under the Payment of Wages Act on the ground that it was not maintainable. In appeal, however, the Appellate Authority set aside the order of stoppage of three increments with cumulative effect, and held that the order imposing penalty had not been passed for good and sufficient cause. It set aside the order of penalty and directed payment of the amount so withheld. This order has been upheld by the High Court in Revision.

It is well settled that the authority under the Payment of Wages Act has no jurisdiction to interfere with orders passed under disciplinary proceedings. The appellate order which has been upheld by the High Court in revision was, therefore, without authority. Accordingly, the impugned orders of the High Court and the appellate authority are set aside and the order of the Authority under the Payment of Wages Act is upheld. The appeal is allowed."

12. Keeping in view the law laid down by the Apex Court in the aforementioned Civil Appeal, we hold that the Authority under the Payment of Wages Act has no jurisdiction to interfere with the orders passed under disciplinary proceedings.

13. For the reasons recorded above, both these Civil Revision Petitions are allowed. The judgment dated July 29, 1994 passed by the Assistant Labour Commissioner-cum-Authority under the Payment of Wages Act and the judgment and decree dated September 9, 1996 passed by the Additional District Judge, Ropar, are set aside. However, parties are left to bear their own costs.