

(1998) 07 P&H CK 0022
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 2900 of 1991

Gurbux Singh and others

APPELLANT

Vs

Executive Engineer, Ropar Division, Sirhind Canal, Ropar and
another

RESPONDENT

Date of Decision : 30-07-1998

Acts Referred:

Payment of Wages Act, 1936 — Section 15

Citation : (1999) 2 LLJ 1327 : (1998) 120 PLR 594

Hon'ble Judges : G.C. Garg, J

Bench : Single Bench

Advocate : Parminder Singh, for the Appellant; G.S. Grewal and N.D.S. Mann,
for the Respondent

Judgement

G.C. Garg, J.—Petitioners are the employees of Irrigation Department and working under the Executive Engineer Sirhind Canal, Ropar Head Works Division, Ropar, Punjab. Gurbux Singh one of the petitioner herein and others filed applications u/s 15(2) of the Payment of Wages Act, 1936 (for short "the Act") before the Sub-Divisional Officer (Civil), Rupnagar for a claim arising but of deductions made from his wages in the sum of Rs. 1928.30 during the period 1974 to 1980, seeking a direction u/s 15(3) of the Act to his employer for payment of compensation in the sum of Rs. 19,283/- being ten times of the wages deducted. The claim was based for non-issuance of summer and winter uniforms and the stitching charges thereof and the shoes which were required to be supplied to him during the period 1974 to 1989 every year. The Sub-Divisional Officer framed the following issues :-

1. Whether the applicant is governed by the provisions of the Payment of Wages Act ? OPA.
2. If issue No. 1 is proved, whether any illegal deduction of wages or delayed payment of wages has been made to him and if so, to what extent ? OPA.

3. Relief.

2. Issue No. 1 was answered in favour of petitioner Gurbux Singh and it was held that he was governed by the provisions of the Act. Issue No. 2 was also decided in favour of the petitioner. As a result the application was allowed by the Sub-Divisional Officer by order dated March 30, 1987 and the respondent therein was ordered to make payment of Rs. 19,282/- to the petitioner within a period of three months from the date of that order.

3. Three separate appeals came to be filed by the petitioners before the learned District Judge against the order of the Sub-Divisional Officer which were disposed of by a single order dated November 17, 1987. Learned District Judge on a consideration of the matter came to the conclusion that the petitioners are not Class IV employees and in fact they are Class HI employees and thus the uniform etc. on an earlier occasion were supplied to them as an amenity only and the same were not required to be supplied under the Rules governing the conditions of their services. Learned District Judge further held that the demand for the supply of uniforms by the petitioners does not come under the definition of wages. It was further held that as per the provisions of the Act the applications seeking such a direction could be filed within a period of 12 months and it having been filed beyond that period was barred by limitation. Learned District Judge also came to the conclusion that the Sub-Divisional Officer was not the Prescribed Authority under the Act and thus he could not entertain such claims u/s 15 of the Act. The appeals were accepted and the order of the Sub-Divisional Officer (Civil) was set aside by the order dated November 17, 1987. Aggrieved by the order of learned District Judge, the three petitioners filed the present revision petition.

4. It may be noticed at the very outset that three separate appeals were filed before the District Judge against the orders of the Sub-Divisional Officer (Civil) which were passed on the three applications of the petitioners. These appeals were clubbed and disposed of by one order. The petitioners have, however, filed only one revision against the order of learned District Judge passed in their respective appeals. In my opinion, one revision petition directed against the orders passed in three revision petitions ought to have been filed. Faced with this situation learned counsel for the petitioners submitted that this revision may be treated on behalf of petitioner Gurbux Singh only. In this view of the matter, the revision on behalf of petitioners 2 and 3 is dismissed.

5. Learned counsel for the petitioner submitted that the claim of the petitioner falls within the definition of the Act and learned District Judge erred in holding that the supply of uniforms was an amenity and thus did not fall within the definition of the Act. Learned D.A.G. Punjab, on the other hand submitted that if the uniforms etc. are supplied under the Rules, it will fall within the definition of the Act but if it is not otherwise admissible under the rules, it would not fall within the definition of the Act and thus the applications made by the petitioners before the Sub-Divisional Officer were not maintainable. In support of his

submission learned counsel placed reliance on *Madhya Pradesh, State Road Transport Corporation, Bairagarh Vs. Industrial Court, Madhya Pradesh, Indore and Others*, . Learned counsel further submitted that there was no issue regarding limitation of the claim or whether the Sub-Divisional Officer (Civil) was the prescribed authority to entertain such applications and thus the learned District Judge could not of his own give any finding on these questions and thus a material irregularity has been committed by him. On the other hand, learned D.A.G. Punjab appearing on behalf of the respondents submitted that the question of limitation and the question whether the Sub-Divisional Officer (Civil) was the prescribed authority or not are pure questions of law and these can be raised and decided at any point of time and before any Court till the matter is finally disposed of.

6. After hearing learned counsel for the parties, I am of the opinion that this petition has no merit and deserves to be dismissed. The provision of uniforms and shoes etc. as in the case of Class IV employees is made under the Rules governing the services of such employees and if it is provided to employees other than those entitled to get it under the rules, this is an amenity. The employer may continue to provide this amenity or discontinue it at any point of time or even may not at all provide it. The employees who are not entitled to uniform etc. under the Rules cannot demand from the employer as of right the supply of the uniforms etc. The petitioners herein are admittedly Class III employees and there is no provision under the Rules governing their services to provide uniforms etc., to such employees. The fact that the uniforms were supplied for few years and thereafter, this was stopped, will not clothe the petitioner to ask for it as of right and therefore, this claim does not fall within the definition of the Act.

7. As regards limitation, it is clearly mentioned in Section 15(2) of the Act that such an application can be filed within a period of twelve months. Admittedly, the petitioners laid claim in respect of the period 1974 to 1980 and for this purpose they filed applications in the year 1988, which on the face of it was barred by limitation. Such a question could well be raised and adjudicated upon by the learned District Judge as no evidence was required to be led on this point by any of the parties. Further, the question whether the Sub-Divisional Officer (Civil) was the prescribed Authority under the Act or not could again be gone into by the learned District Judge because on the decision of such a question which determines the maintainability of the matter before any forum, the matter can be set at naught at the very threshold. I thus find no illegality or material irregularity in the order passed by the learned District Judge. The revision petition is consequently dismissed. No costs.