
(2013) 03 P&H CK 0124
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 4937 of 2013

Municipal Council

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 21-03-2013

Acts Referred:

Citation : (2013) 4 LLJ 220

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Harindar Kumar Aurora, for the Appellant;

Judgement

Rajiv Narain Raina, J.—The present writ petition arises out of proceedings u/s 33-C(2) of the Industrial Disputes Act, 1947 (for short "the Act"). 24 Octroi Clerks and Octroi Peons working in the Nagar Council, Nurmahal, District Jalandhar and some of whom were retired employees filed an application u/s 33-C(2) before the Labour Court, Jalandhar claiming extra wages for Saturdays worked on Octroi post. It was claimed that these extra wages should be determined and paid to them as a pre-existing right flowing from the judgment of the Supreme Court in Municipal Employees Union (Regd) Sirhind and others vs. State of Punjab and anr decided on 15.03.2000. It was not disputed that all other municipal employees in the State of Punjab are given benefit of five days a week w.e.f. 01.12.2002. No specific bye-laws were relied upon requiring employees to work for six days in a week. In absence of rule, the matter is not res integra and is squarely covered by the decision of the Supreme Court. The defence of the petitioner-Municipal Council, Nurmahal before the Labour Court was that the benefit of the judgment could not be passed on to the applicants who had waited for about five years to present the applications after the decision of the Supreme Court. They were late. It was urged that the judgment of the Supreme Court is in personam and not in rem. The Labour Court in the impugned order has held that the judgment of the Supreme Court is in rem and delay in approaching Court would justify that interest on money due can be denied to strike a balance. In

this manner, the Labour Court has moulded the relief and applied the law laid down by the Supreme Court in the aforesaid judgment in Civil Appeal No. 8434 of 1997, the full text of which has been placed on record as Annexure P-6.

2. Learned counsel for the petitioner submits that the Labour Court has misread the judgment of the Supreme Court inasmuch as the right to claim monetary benefit had been restricted to three years prior to the date of filing of the writ petitions. The benefit being admissible only to those persons who had filed writ petition in the High Court at the end of 1991 or in the beginning of 1992. In the present case, the private respondents had filed CWP No. 4430 of 1994 much later which was dismissed and no appeal was filed thereafter. He would rely on the judgment of the Supreme Court in *U.P. State Road Transport Corporation v. Ram Singh*, (2008) 17 SCC 627 to contend that delay in raising industrial dispute is fatal to the application. The case is distinguishable as it is on reference u/s 10(1)(C). The Industrial Disputes Act does not prescribe any limitation in an application u/s 33-C(2). Therefore, the delay cannot be used against the private respondents. If respondent Nos. 4, 5, 9 and 18 joined the petitioner-Council on 26.09.1995, 20.11.1997 and 29.05.1996 after the filing of CWP No. 4430 of 1994 they would obviously not be a party to the writ petition and would have an independent right in terms of the Supreme Court judgment to approach the Labour Court for relief. I have, however, perused the statement of claim (P-2) filed by the workmen jointly and particularly Paragraph 9 thereof and am of the view that there is no suppression of material fact which would tend to foreclose the case of the five persons picked out by the petitioner or the rest. In pleadings before the Labour Courts, purity is expected but pleadings are settled by authorized representatives who may not be highly trained and skilled in drafting pleadings as lawyers are expected to be, and which therefore need to be seen without insisting on technicalities, so long as they are truthful and carry a triable issue fit for adjudication. I do not find any cogent or valid reason to warrant interference in writ jurisdiction against the impugned order. Dismissed.