
(2013) 08 P&H CK 0240
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 4229 of 1996 (O and M)

Municipal Workers' Union

APPELLANT

Vs

Municipal Corporation

RESPONDENT

Date of Decision : 29-08-2013

Acts Referred:

Citation : (2013) 4 LLJ 627 : (2013) 5 LLN 730 : (2013) LLR 1145

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Advocate : Ankit Goel, for the Appellant; A.R. Takkar, for the Respondent

Final Decision : Disposed Off

Judgement

Ajay Tewari, J.—By this petition the petitioner-Union has challenged the order dated 2.1.1996 (Annexure P-1) whereby it was clarified that only those employees were entitled to overtime rates for working on Saturdays who had filed Court cases. Brief facts which have given rise to this controversy are that in Reference No. 56 of 1969 decided on 30.4.1970 the Industrial Tribunal, Punjab directed that Beldars working with the Municipal Corporation, Ludhiana were entitled to paid holiday in a week and consequently directed that all those who had worked on sixth day (i.e. on Saturday) would be entitled to extra wages. Thereafter, large number of applications u/s 33C(2) of the Industrial Disputes Act, 1947 were filed by individual employees claiming their extra wages. The petitioner-Union also filed CWP No. 11611 of 1989. The said writ petition was ultimately disposed of as having been rendered infructuous because in the meantime the Corporation paid the amounts to some of the employees. The Division Bench of this Court also held that there was a binding award between the parties in view of which workmen were entitled to wages for the duties performed on Saturdays. By the order (Annexure P-1) the benefit of compensation for working on Saturdays was restricted only to those employees who had approached the Court. Hence, the petitioner-Union is before this Court.

2. The precise argument of learned counsel for the petitioner is that this kind of discrimination between the two sets of homogenous employees is impermissible in law.

3. Learned counsel for the respondent-Municipal Corporation are not in a position to deny that relief cannot be restricted to similarly situated employees who have approached the Court. They have however pointed out that to get the necessary relief it would be incumbent upon each individual workman to file an application u/s 33C(2) of the Industrial Disputes Act, 1947 detailing the days for which they are entitled for this extra payment.

4. Learned counsel for the petitioner has also fairly accepted that in order to grant any substantive relief to the members of the Union or to the similarly situated workman it would be necessary to file individual application bringing out the exact amounts claimed on the basis of the exact Saturdays on which each individual workman had worked. In the circumstances, it is held that the impugned order (Annexure P-1) is set aside leaving the workmen involved to enable them to move individual application detailing the amounts claimed on the basis of the Saturdays on which they had worked. As regards the respondent, in view of the fact that order (Annexure P-1) is set aside the respondent would be barred from asserting that such persons are disentitled to seek compensation for the extra day (except in cases where the rules specifically envisaged six days a week). The workmen will be granted a period of 2 months to file their individual claims after the date of receipt of a certified copy of this order by the Labour Court. It is clarified that any claim not being filed within that period would not be entertained. On receipt of the claim, the Labour Court will endeavour to decide the applications expeditiously but in any case within a year from the date of institution.

Petition is allowed in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.