
(2001) 03 P&H CK 0055

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14902 of 1998

Punjab State Co-operative Supply and Marketing Federation
Ltd.

APPELLANT

Vs

Presiding Officer, Industrial Tribunal

RESPONDENT

Date of Decision : 12-03-2001

Acts Referred:

Industrial Disputes Act, 1947 — Section 9

Citation : (2003) 97 FLR 365

Hon'ble Judges : S.S. Sudhalkar, J

Bench : Single Bench

Advocate : Mr. Brij Mohan Lal Garg, for the Appellant; Mr. Ashwani Bakshi, for the Respondent

Judgement

S.S. Sudhalkar, J.—By this writ petition the employer is challenging the award of the Labour Court dated 20.10.1997, copy Annexure P. 10. The award was, as a result of a reference made by respondent No. 2, in connection with the withdrawal of compensatory allowance given to the hilly and Bet areas by the petitioner. The Labour Court held in favour of the respondents that they are entitled to the allowance in terms of resolution dated 4.1.1990 and that the order passed on 15.1.1990 unilaterally withdrawing the same from the employees of the petitioners without following the provisions of Section 9A of the Industrial Disputes Act and the Rules framed thereunder, was illegal and inoperative. The petitioners had granted the benefit after the Punjab Government granted this benefit to its employees. Subsequently, the Punjab Government withdraw this allowance and consequently, the petitioners also withdrew it. Learned counsel for the petitioners argued that because the Punjab Government had given the benefit, the petitioners also gave the benefit to their workmen and after it was withdrawn by the Punjab Government, the same was withdrawn by the petitioners also. He also argued that if the petitioners can grant the benefit, they could also withdraw it.

2. Learned counsel for the respondents had relied on Section 9A of the Industrial Disputes Act. In this respect the argument of the learned counsel for the petitioners was that this is the change in the condition of service as envisaged u/s 9A of the Industrial Disputes Act as mentioned in the fourth Schedule to the Act. Section 9A of the Industrial Disputes Act reads as under :-

"9A. Notice of change. - No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change -

(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected;

(b) xxxxxxxx"

Item No. 3, in the Fourth Schedule is as under :-

"3. Compensatory and other allowances."

3. In this case, admittedly, no notice of change as envisaged u/s 9A of the Act has been given. This being the position, the Labour court cannot be said to have erred in holding that the unilateral withdrawal of the allowance without following the procedure prescribed u/s 9A of the Industrial Disputes Act is illegal and inoperative. As a result, this writ petition is without merit and deserves to be dismissed. It is hereby dismissed.

4. Petition dismissed.