

**(1995) 02 P&H CK 0123**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 602 of 1994**

|                                              |            |
|----------------------------------------------|------------|
| Punjab State Electricity Board and Another   | APPELLANT  |
| Vs                                           |            |
| Presiding Officer, Labour Courts and Another | RESPONDENT |

---

**Date of Decision :** 28-02-1995

**Acts Referred:**

Industrial Disputes Act, 1947 — Section 33(12)

**Citation :** (1995) 110 PLR 365

**Hon'ble Judges :** N.K. Sodhi, J

**Bench :** Single Bench

**Advocate :** Y.P. Khullar, for the Appellant; R.K. Sharma, for the Respondent

**Final Decision :** Dismissed

---

## Judgement

N.K. Sodhi, J.—Punjab State Electricity Board, Patiala (for short), the Board appointed Jaswant Rai-Respondent (hereinafter called the workman) as Air-Compressor Operator on 8.2.1971 in the pay scale of Rs. 110-190/-. He continued working till October, 1974. On 19.10.1974, he applied for the post of a Road Roller Operator which post did not earlier exist. He was appointed to this post on 21.10.1974 and he joined on 1.11.1974. Since this post did not exist, the Board placed him in the scale of Rs. 130-200/-. On 31.12.1977 the workman was drawing a basic pay of Rs. 145/- in the scale of Rs. 130-200/-. On 1.11.1978, the pay scales of all the employees of the Board were revised with effect from 1.1.1978 and the post of Road Roller operator was created for the first time and the pay scale fixed for this post by the Board was Rs. 100-160/-. With the coming into force of the revised pay scales the Board effected recovery from the petitioner because he had been drawing pay in a higher scale of Rs. 130-200/- with effect from the date when he was appointed to this post. Feeling aggrieved by the recovery effected by the Board, the workman filed an application u/s 33C(2) of the Industrial Disputes Act 1947 (referred to hereinafter as the Act) before the Labour Court, Bhatinda for recovering the amount deducted by the Board. After recording evidence of the parties, the

Labour Court allowed the application and directed the Board to pay to the workman his salary in the pay scale of Rs. 130-200/- after deducting the amount already paid. It is this order of the Labour Court that has been impugned in the present petition filed by the Board under Article 226 of the constitution.

2. After hearing counsel for the parties and having perused the impugned order, I find no merit in the writ petition. There is no gain saying the fact that when the workman was appointed a Road Roller Operator this post did not exist in the Schedule of the posts with the Board and he was given the pay scale of a driver which was Rs. 130-200/-. Thereafter when the pay scales were revised w.e.f. 1.1.1979 the post of Road Roller Operator came to exist for the first time and the pay scale as fixed for it was Rs. 100-160/-. All the employees who were appointed to this post-after it was created were paid salary in the scale of Rs. 100-160/- but in the case of the workman who had been appointed earlier to the existence of the post his salary could not be reduced. The Board must protect his pay even though the scale fixed for the post of Road Roller Operator was Rs. 100-160/-. The Labour Court was, therefore, justified in allowing the application and directing the Board to pay the amount that was deducted from the salary of the workman. The argument of Mr. Khullar, Advocate for the Board is that the Labour Court could not direct the payment in proceedings u/s 33C(2) of the Act because the workman did not have a pro-existing right. This argument is without any merit. The Board itself gave to the workman the pay scale of Rs.130-200/-. How could it then be reduced and the deductions made by the Board were therefore not justified.

3. In the result, the writ petition is dismissed leaving the parties to bear their own costs.