

(2001) 07 P&H CK 0047

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 3044 of 1999 (O and M)

Punjab State Electricity Board

APPELLANT

Vs

Ajit Singh

RESPONDENT

Date of Decision : 06-07-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226
Industrial Disputes Act, 1947 — Section 33

Citation : (2001) 07 P&H CK 0047

Hon'ble Judges : N.K. Sud, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : Mr. Sanjeev Sharma, for the Appellant; Mr. B.R. Mahajan, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Sodhi, J.—This order will dispose of two writ petitions No. 3044 and 5652 of 1999 one of which has been filed by the Management challenging the order of the Labour Court granting a higher pay scale to the workman- respondent and the other has been filed by the workman claiming interest on the arrears awarded by the Labour Court.

CWP 3044 of 1999

2. The short question that arises for our consideration in this petition filed under Article 226 of the Constitution is whether Ajit Singh (for short the workman) who was ordered to be regularised as a Chargeman is entitled to the pre-revised scale of Rs. 700-1200 or to the lower scale of Rs. 430-800 which was given to him. Facts giving rise to this petition lie in a narrow compass and these may first be noticed.

3. The workman joined service of Punjab State Electricity Board (hereinafter referred to as the Board) as T-Mate on work charge basis and thereafter he was promoted to the post of Chargeman again on work charge basis with effect from

1.12.1970. Services of persons junior to him were regularised as Chargemen in April, 1984 but the workman was left out. He raised an industrial dispute claiming regularisation of his services with effect from the date when his juniors were regularised in service. This reference was made to the Industrial Tribunal, Punjab and the same was answered in favour of the workman and against the Board. His services were ordered to be regularised with effect from 16.6.1984 the date from which his juniors were regularised in service. In pursuance to the directions issued by the Industrial Tribunal, Punjab the workman was made a regular Chargeman but given the pay scale of Rs. 430-800 which, according to him, he was already drawing while working on work charge basis. He also alleged that his juniors were given the scale of Rs. 700-1200 when their services were regularised. He filed an application before the Labour Court, Amritsar u/s 33-C(2) of the Industrial Disputes Act, 1947 claiming pay in the scale of Rs. 700-1200. On receipt of notice of this application from the Labour Court, the Board contested the same and from the pleadings of the parties, following two issues were framed :

- 1) Whether the applicant has no existing right to sustain his claim ?
- 2) At what amount, should the dues of the applicant be computed ?

Both these issues were decided together and the Labour Court on a consideration of the evidence led by the parties held that the Chargeman on being made regular were given the scale of Rs. 700-1200 which was denied to the workman. This finding was recorded on the basis of the admission made by the witness produced by the Board. It may be mentioned that RW-1 admitted in his cross-examination before the Labour Court that all regular Chargemen were given the scale of Rs. 700-1200 after 1.1.1978. Consequently, the application filed by the workman was allowed by order dated 1.12.1998. It is against this order that the present petition has been filed by the Board.

4. We have heard learned counsel for the parties.

5. When this case came up for hearing before us on 20.5.1999, it was sought to be argued on behalf of the Board that there were two categories of Chargemen in the pre-revised scale of Rs. 430-800 and Rs. 700-1200 in their regular employment and that these different grades were given to them on the basis of their qualifications. It was also urged that the Diploma holders with three years experience were placed in higher grade whereas the non-diploma chargemen were placed in the grade of Rs. 430-800. Since this fact was seriously controverted on behalf of the workman, we directed the Secretary of the Board to file an affidavit explaining the position. An affidavit was filed on 13.8.1999 which did not clarify the position. Another opportunity was provided to the Board to file another affidavit if what was contended before us was correct. The present Secretary of the Board has now filed an affidavit dated 25.6.2001 and we do not find any averment therein to the effect that the Chargemen were ever placed in two different grades as contended by the counsel for the Board. It is rather

admitted that two other Chargemen in the regular employment were placed in the higher pre-revised scale of Rs. 700-1200 and it is sought to be explained that higher grade was given to them on the basis of a court order. There is nothing on the record to show that the court order was ever challenged by the Board. If it has accepted the higher grade in the case of two other chargemen, there is no reason why the workman should not be given the same scale. Secretary of the Board in paragraph 9 of his latest affidavit has contradicted the stand which was sought to be projected by the learned counsel for the Board. It has been stated that holding of a Diploma has no relevancy with the scale granted to a Chargeman. The only material on the record is the statement of RW-1 who categorically admitted in his cross- ex- amination before the Labour Court that regular Chargeman were placed in the higher pre-revised scale of Rs. 700-1200. In view of this admission, the Labour Court was justified in allowing the application filed by the workman and no fault can be found with the findings recorded therein.

6. Before concluding, we may observe that the workman has also filed civil writ petition No. 5652 of 1999 claiming interest on the arrears of salary due to him as a result of his being placed in the higher pre-revised scale of Rs. 700-1200. Having regard to the facts and circumstances of the case, we are clearly of the view that he is not entitled to claim any interest.

In the result, both the writ petitions stand dismissed leaving the parties to bear their own costs.

7. Petitions dismissed.