
(1997) 09 P&H CK 0059
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 13213 of 1997

Punjab State Electricity Board	Vs	APPELLANT
Presiding Officer, Labour Court and Others		RESPONDENT

Date of Decision : 11-09-1997

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (1998) 2 LLJ 120 : (1997) 117 PLR 747

Hon'ble Judges : Jawaharlal Gupta, J; Balwant Rai, J

Bench : Division Bench

Advocate : Anil Malhotra, for the Appellant;

Final Decision : Dismissed

Judgement

Jawaharlal Gupta, J.—The Punjab State Electricity Board is aggrieved by the order dated January 31, 1997 passed by the Labour Court. By this order the Labour Court has upheld the claim of the respondent workmen for payment of arrears of salary on account of the release of annual increments from January 1, 1981; pay for the period from January 16, 1987 to November 9, 1987 and the fixation of pay in the revised pay scale of Rs. 1800-3200 w.e.f. January 1, 1986.

2. Mr. Malhotra learned counsel for the petitioner, contends that the Labour Court could not have granted these reliefs to the respondent-workmen in the petition u/s 33-C(2) of the Industrial Disputes Act.

3. It is not disputed that the annual increments falling due from January 1, 1981 were not released to the petitioner in spite of the fact that no order for withholding these increments had at all been passed at any stage. The Board is trying to take advantage of its own wrong. On the one hand it passes no order to stop the increments. On the other it does not release the amount due to workman. In this situation, it cannot be said that the Labour Court had erred in ordering that in the absence of a specific order the workman was entitled to the release of increments and the consequential arrears of salary. Similarly, it has

been found that the petitioner had not been paid his full salary from the period August 13, 1984 to January 9, 1985 while he had remained under suspension. No order had been passed to the effect that he will be entitled to only subsistence allowance. In spite of that nothing was paid to him. The Labour Court found that the workman is entitled to payment of full salary for the said period. Similar is the position in respect of the period from January 16, 1987 to November 9, 1987. The last matter regarding which the relief has been granted to the workman is regarding the fixation of pay in the revised scale. It is the admitted position that the pay scale of the petitioner had been revised to Rs. 1800-3200. Yet, his pay was not fixed in the revised scale. The Labour Court has directed the Board to do so and ordered the payment of the amount. The order passed by the Labour Court is absolutely just and fair. It does not violate any provision of law. It has not been shown that the petitioner-Board was entitled to withhold the amounts due to the workman. In fact, where there was any doubt, the Labour Court has itself declined the relief. To illustrate, the workman has not been given the salary for the period from June 2, 1982 to October 27, 1983 as the question was the subject matter of disciplinary proceedings. Similarly, no bonus has been ordered to be paid for the period from 1985 to 1991-92. Even the workman's claim with regard to the salary for the period from August 13, 1996 to December 15, 1986 has been disallowed.

4. Mr. Malhotra has placed reliance on the decision of their Lordships in *Municipal Corporation of Delhi Vs. Ganesh Razak and Another*, . This was a case where the temporary employees were claiming parity in the matter of pay scale with those working on regular basis. The Claim for the grant of arrears of salary on this basis was sustained by the Labour Court in proceedings u/s 33-C(2). Their Lordships were pleased to hold that the Labour Court could not uphold the claim in the application u/s 33-C(2) of the Act as there was no pre-existing right. Such is not the situation in the present case. The increment normally accrues to the employees annually unless there is an order for withholding it. Similarly, an employee is entitled to full salary for the period of suspension unless there is an order by the competent authority to pay him a lesser amount. The Board in the present case has adopted a recalcitrant attitude. It passes no order and yet does not release the wages. In such a situation, the Labour Court has no alternative but to come to the help of the workman who was being denied his rightful dues.

5. Lastly, Mr. Malhotra has contended that the orders in respect of the reliefs claimed by the petitioner could not be passed as a charge sheet has been issued to him for absence from duty for the period from June 2, 1982 to October 27, 1983. Since this matter was pending consideration with the Board, the Labour Court could not have entertained the workman's claim for the grant of reliefs as prayed for by him. Mr. Malhotra concedes that no proceedings had been initiated against the workman till May 18, 1992 when he had approached the Labour Court for the grant of various reliefs as claimed by him. It is conceded that the charge sheet was issued to him only on February 3, 1995. It is apparent that the charge sheet was a counter blast to the claim made by the workman in the year

1992. Even after that the Board had waited for almost 3 years before it issued the charge sheet and this charge sheet relates to the absence from June 2, 1982 to October 27, 1983. No explanation for the inordinate long delay for 12 years has been given. In this situation, it appears safe to say that the Board has initiated the proceedings only because the workman has raised the claim for arrears of salary. We cannot compliment the Board for its action. However, we cannot say any more in this context. Suffice it to mention that the action of the Board is not just and fair.

6. No cause for grievance is made out. The petition is wholly frivolous. It is consequently dismissed in limine.