
(2008) 02 SC CK 0212

In the Supreme Court Of India

Case No : Civil Appeal No. 2235 of 2008 (Arising out of S.L.P. (C) No. 10133 of 2003) and Civil Appeal No's. 6097, 6602, 6599, 6938, 7980, 7981, 6106, 6601, 6597, 6939, 6594 and 9026/03 and Civil Appeal No. 2172 (Arising out of SLP (C) No. 8270/04) , Civil Appeal

Sat Pal Puri

APPELLANT

Vs

Punjab State Electricity Board and Others

RESPONDENT

Date of Decision : 21-02-2008

Acts Referred:

Electricity (Supply) Act, 1948 — Section 12, 5, 79
Industrial Disputes Act, 1947 — Section 33C(2)

Citation : AIR 2008 SC 1729 : (2009) 2 ALT 8 : (2008) 1 CLT 758 : (2008) 119 FLR 602 : (2008) 3 LLJ 296 : (2008) 4 SCALE 169 : (2008) 4 SCC 216 : (2008) 1 SCC(L&S) 1009 : (2009) 1 SLJ 397

Hon'ble Judges : V. S. Sirpurkar, J;S. B. Sinha, J

Bench : Division Bench

Advocate : A.K. Ganguli, K.C. Bhagat, Manohar Singh Bakshi, Lakhbir Singh Bakshi, Debasis Misra, Ajay Majithia, Rajesh Kumar, Ravindra Keshavrao Adsure, Kailash Chand, Sudhir Nandrajog, Bimal Roy Jad, S. K. Sabharwal, Harinder Mohan Singh, Kaushal Yadav, Durgesh Yadav, Kuldeep Singh, R.K. Pandey, Madhukar Choudhary, Naresh Bakshi, Shalu Sharma, R.C. Kaushik, Arun K. Sinha, K.L. Mehta, for K.L. Mehta and Co., K.J. John, Yash Pal Dhingra, P.K. Goklaney, A.P. Mohanty, Jagjit Singh Chhabra, Tarun Gupta, Nidhi Gupta, S. Janani and Dharmendra Kumar Sinha, for the Appellant;

Final Decision : Dismissed

Judgement

S.B. Sinha, J.—Leave is granted in the SLP.

2. Appellants filed a writ petition before the Punjab and Haryana High Court at Chandigarh claiming parity in the matter of remuneration for working on Saturdays and Sundays in terms of the decision of this Court in Municipal Employee Union (Regd.) Sirhind and Ors. v. State of Punjab and Ors. (2000) 9 SCC 432, wherein it was opined that in the absence of any express provision to the contrary in Municipal bye-laws, the octroi staff could not be denied the

benefit of non-working Saturdays and, thus, when required to work on such Saturdays, they could be granted extra wages in lieu thereof. However, this Court further opined that factual foundation for such claim was required to be established. It was also opined that in the event if the employees had filed applications u/s 33C(2) of the Industrial Disputes Act, the same may be entertained.

3. The Division Bench of the High Court in some cases even without notice, allowed the writ applications filed by the workmen opining that the State of Punjab cannot deny the said benefit to the employees of other departments. Respondent-Punjab State Electricity Board filed an application for review of the said judgment and by reason of the impugned judgment, the Division Bench of the High Court held that the decision of this Court in Municipal Employees Union (supra) is not applicable. The appellants are, thus, before us.

4. The short question which arises for our consideration is (sic) to whether the decision of this Court in Municipal Employees Union (supra) is applicable to the facts and circumstances of this case. The Punjab State Electricity Board was constituted and incorporate in teems of Sections 5 and 12 of the. Electricity Supply Act, 1948 (for short, 1948 Act). u/s 79(c) of the 1948 Act, the Board subject to compliance of the statutory requirements contained therein is entitled to frame its own regulations. It is permissible for the Board to frame different regulations for different categories of employees. It is a department of the State of Punjab.

5. It is stated that Appellants herein belong to the technical category, service grade III, requiring to perform field duties. Supply of electricity is a public utility function of the Board. The Board therefore is required to have technical staff at their, disposal, 24 hours a day, seven days a week.

6. It has been contended before us that in fact, several regulations have been framed by the Board in this behalf. Several agreements have also been entered into by and between the Union and the Board. Some of the employees are also governed by the provisions of the 1948 Act.

7. Our attention has also been drawn to the fact that three categories of workman are governed by different terms and conditions of service in regard to enjoyment of holidays viz:.

a) Technical Staff (Regular) Work charged covered on the Factories Act 1948.

b) Regular Technical field Staff not covered under the Factories Act.

c) Work charged employees not covered under the Factories Act.

It has also bean stated that local outdoor duty allowance (LODA) to different categories of Technical/Field staff employees working on different duties, e.g, those working in the operations and R.E. Divisions, construction organisations are paid. The quantum of allowance is revised from time to time. Our attention

has further been drawn to a circular letter dated 5.4.1972, from a perusal whereof it appears that technical field staff would be entitled to the holidays in a calendar year as stipulated therein, namely.

i) Saturdays on alternate months-not exceeding five.

ii) Half the number of Gazetted Holidays notified by the Board for the other staff.

8. We must however notice that the Punjab State Electricity Board had issued a circular letter dated 27.10.1986 which is in the following terms:

In compliance with the instructions issued vide this office order No. 432/PSEB dated 24.05.1982, it is informed that all the officers of the Punjab State Electricity Board shall function from 9.00 a.m. to 5.00 p.m. from Monday to Friday with lunch break from 1.30 p.m. to 2.00 p.m. i.e. the same office timings of the Government of Punjab. The offices of the Electricity Board shall remain closed on all the Saturdays and Sundays.

2. The same holidays shall be observed in the offices of the Punjab State Electricity Board as are being observed in the office of the Punjab Government.

A bare perusal of the said circular dated 27.10.1986 would clearly show that the same would be applicable only in respect of the officers and employees working in the office of the Electricity Board and not the Field Staff. The circular letter dated 5.4.1972 has not been repealed by circular letter dated 27.10.86.

9. In view of the fact that the technical staff of the Board are governed by regulations framed u/s 79(c) of the 1948 Act the appellants herein do not have any existing legal right so as to enable them to file an application u/s 33C(2) of the Industrial Disputes Act, 1947.

10. We have noticed hereinabove that even in Municipal Employees Union's case (supra), this Court opined that the octroi staff could be entitled to the said benefit of non-working Saturdays and when required to work on such Saturdays, were entitled to extra wages in lieu thereof, if they are not governed by any of the rule. In the case the appellants being governed by statutory rules, they would not be entitled to file applications u/s 33C(2) of the 1947 Act.

11. For the aforementioned reasons, we are, of the opinion that the impugned judgment and order of the High Court does not suffer from any legal infirmity. These appeals are therefore, dismissed. No costs.

CIVIL APPEAL NOS. 7982, 1929, 2355, 2352, 1840, 1928, 1926, 1918, 1924, 1925, 1836, 4428, 4435, 4436, 4437/ 6595/ 4439/ 4440, 4443, 6102 & 6594 of 2003

AND

Civil Appeal No. 2238/2008 @ SLP(C) No. 9026/03 Civil Appeal No. 2242/2008 @ SLP(C) No. 9284/04

12. Leave is granted in the SLPs.

13. It is stated by the learned Counsel for the appellants that the appeals above-mentioned have been covered by order dated 14.2.2008 passed by this Court in Civil Appeal No. 1476/2003 and other connected appeals. These appeals are disposed of accordingly.