
(2008) 02 P&H CK 0203
In the Punjab And Haryana At Chandigarh

Sat Pal Singh and Others

APPELLANT

Vs

Piccadily Agro Industries Limited and Others

RESPONDENT

Date of Decision : 07-02-2008

Acts Referred:

Industrial Disputes Act, 1947 — Section 19(1)(c)

Citation : (2008) 118 FLR 1082 : (2009) 2 LLJ 46 : (2008) 151 PLR 294

Hon'ble Judges : K.C. Puri, J;Ashutosh Mohunta, J

Bench : Division Bench

Judgement

K.C. Puri, J.—Vide this order, we shall dispose of CWP Nos. 5432, 6744, 6745, 6746, 6747, 6748, 6991, 7039, 7111, 7112, 7238, 7239, 7257, 7261, 7265, 7266, 7270, 7272, 7288 and 7305 of 2007. The facts have been taken from CWP No. 5432 of 2007 titled as Sat Pal Singh v. Piccadily Agro Industries Limited, Bhadson, District Karnal and Ors.

2. The case of the workman in nutshell is that he was working as Mazdoor with respondent No. 1 since crushing season of 1994-95. The petitioner had worked for 7 seasons without any break and has completed 240 days in the respondent-mill. In the crushing season 2001-02, the petitioner approached respondent No. 1, but respondent No. 1 did not allow him to join his duty ignoring his seniority. The petitioner and other workmen contacted the respondent-mill on number of occasions and requested them to allow to join their duty but the respondent-mill put off the petitioner on one pretext or the other. The petitioner aggrieved by the illegal act of respondent filed a demand notice on 27.7.2002 and the matter was referred to Labour Court for adjudication u/s 19(1)(c) of the Industrial Disputes Act, 1947 vide reference dated 17.8.2004. During the pendency of the abovementioned proceedings before the Labour Court, a settlement was arrived at between the petitioner and respondent-mill and it was agreed upon between the parties that mill will prepare the seniority list of the workmen and would allow the petitioner to work in the immediate crushing season according to the seniority and award in this regard dated 14.10.2005 was passed by Labour Court/

Lok Adalat.

3. The petitioner, thereafter, approached the respondent- mill for immediate crushing season but again the respondent refused to take the petitioner workman back on the work and did not allow him to join the respondent-mill. The name of the petitioner is at Serial No. 5 in the list prepared by the respondent. The petitioner alongwith others approached the Labour and Settlement Officer- respondent No. 3 for implementation of the award. The Labour Inspector passed an order dated 13.3.2006 vide which it has been illegally held that award dated 14.10.2005 has been complied with. That order dated 13.3.2006 has been challenged in the writ petition. The order of the Labour Inspector respondent No. 3 defeats the very purpose of settlement arrived at between the respondent-mill and petitioner-workman and is also contrary to the law laid down by the Honble Supreme Court in Morinda Co-op. Sugar Mills Ltd. Vs. Ram Krishan and others etc., .

4. A prayer has been made for implementation of the award after quashing the impugned order dated 13.3.2006 passed by respondent No. 3 and further prayer has been made for issuance of directions to respondent No. 1 to take back the present petitioner on work in the immediate crushing season and to pay full back wages with interest @ 18% per annum from the date of start of crushing season in the year 2001-02 till respondent No. 1 allow the petitioner to join his duty.

5. Notice of the petition was given to respondent No. 1, who has filed reply taking preliminary objections that writ petition is misconceived; the petition is liable to be rejected on the ground of delay and laches. On merits, it is pleaded that the answering respondent has prepared the seniority list of the workmen and has complied with the order dated 14.10.2005. The present petition is mere in the nature of execution petition for implementation of award Annexure P-4 and as such the award of the Labour Court/Lok Adalat cannot be executed by writ Court.

6. We have heard both the sides and have gone through the record of the case.

7. It is not disputed that the petitioner was working with the respondent-mill. It is also not disputed that respondent No. 1 is a seasonal industry. The petitioner and Ors. raised an industrial dispute vide demand notice dated 27.7.2002 Annexure P-2 and that dispute ultimately culminated into a settlement on 14.10.2005 and award dated 14.10.2005 Annexure P-4 was passed on the basis of statements made by both the parties. It was observed that the management has agreed to maintain the seniority list of the workmen from the date of appointment as per letter-cum-joining report dated 6.12.2000. The reference was disposed of in that term. It is also not disputed that even after passing of the said award Annexure P-4, the petitioner and Ors. have not been allowed to join the duties. That grievance was referred to the Labour-cum- Conciliation Officer, Karnal, who vide order dated 13.3.2006 Annexure P-7 has held that the award dated 14.10.2005 has been complied with as seniority list has been

prepared.

8. Admittedly, the petitioner of the present case and other workmen have not been taken into service in the crushing season after 14.10.2005. The stand of respondent No. 1 is that vide award Annexure P-4, respondent No. 1 was only directed to prepare the seniority list. Respondent No. 1 has prepared the seniority list. The respondents in the beginning of the season have posted letters to the petitioner but he has not joined. The mill is a seasonal mill and reinstatement with full back wages cannot be allowed in view of the authority Anil Bapurao Kanase Vs. Krishna Sahakari Sakhar Karkhana Ltd. and another, . The objection has been taken that award Annexure P-4 cannot be ordered to be implemented in a writ jurisdiction. Reference has been made in respect of Annexure R-1/2 vide which publication has been made in Dainik Bhaskar for directing the seasonal workers to join their duty in the season 2001-02.

9. So far as the objection taken by respondent No. 1 that execution cannot be ordered by the Writ Court, is concerned, the same cannot be accepted. The petitioner and other workmen had approached the Labour department who has held that award has been complied with. The question arises, whether the award dated 14.10.2005 Annexure P-4 has been duly complied with or not. It was not the intention of the parties to mere prepare the seniority list. The seniority list cannot be said to be a paper transaction alone. The very purpose of preparing the seniority list is to allow the workmen to join the crushing season in accordance with their seniority. The publication Annexure R-1/2 relates to the season 2001-02.

10. There are two prayers made by the petitioner, firstly seeking full back wages alongwith interest @ 18% per annum starting from crushing season in the year 2001-02 till the petitioner and Ors. are allowed to join the duty and secondly, implementation of the award.

11. We are of the considered view that in view of the authority Morinda Coop. Sugar Mills case (supra) relied upon by the petitioner and in view of the authority Anil Bapurao Kanases case (supra) relied upon by respondent No. 1, the reinstatement of the petitioner from the year 2001-02 cannot be allowed as respondent No. 1 is a seasonal factory. Moreover, the award was ultimately passed on 14.10.2005 on the statement of both the sides and both the parties are bound by term of the award dated 14.10.2005. The intention of award dated 14.10.2005 cannot be said to be merely to prepare the seniority list. The purpose of maintaining the seniority list is to allow the persons mentioned in the seniority list to work according to the seniority and exigency of the work. Respondent No. 1 has relied upon the authority Anil Bapurao Kanases case (supra). In this authority, it has been observed as under:

However, this Court has directed that the respondent management should maintain a register and engage the workmen when the season starts in the succeeding years in the order of seniority. Until all the employees whose names

appear in the list are engaged in addition to the employees who are already working, the management should not go in for fresh engagement of new workmen. It would be incumbent upon the respondent management to adopt such procedure as is enumerated above.

12. These observations have to be complied with in letter and spirit by the respondent management. So, in these circumstances, order dated 13.3.2006 Annexure P-6 stands quashed and directions are issued to respondent No. 1 management that it shall engage the workers when the season starts in the succeeding year in the order of seniority Annexure R-1/1 prepared by it. Until all the employees whose names appear in the list are engaged in addition to the employees who are already working, the management should not go in for fresh engagement of new workmen. The management, before 15 days of the season, shall submit list to the Trade Union of the petitioner and shall place the list on the notice board and shall allow the workers to go through the list and shall employ the workers in accordance with the seniority as per list Annexure R-1/1 complying the directions given by the Apex Court in the authority Anil Bapurao Kanases case (supra).

13. So far as the relief for the grant of back wages etc., is concerned, the same stands declined.

14. A copy of the order be placed on all the connected writ petitions mentioned above.