
(2003) 04 P&H CK 0053
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2784 of 1991

State of Punjab

APPELLANT

Vs

Gian Chand, Conductor

RESPONDENT

Date of Decision : 30-04-2003

Acts Referred:

Payment of Wages Act, 1936 — Section 1

Citation : (2003) 3 LLJ 1029 : (2003) 135 PLR 72

Hon'ble Judges : Ashutosh Mohunta, J

Bench : Single Bench

Advocate : Vipin Mahajan, for the Appellant; R.S. Sharma, for the Respondent

Final Decision : Allowed

Judgement

Ashutosh Mohunta, J.—Through the present revision petition, the State of Punjab has challenged the judgment of the Additional District Judge, Jalandhar dated 5th December, 1990 and the order passed by the authority under the Payment of Wages Act dated 8th January, 1990, by which the order dated 15th April, 1983 was held to be illegal and the stoppage of one increment with cumulative effect was also held to be illegal by the authority under the Payment of Wages Act.

2. Briefly, the facts are that the General Manager, Punjab Roadways, Jalandhar vide order dated 15th April, 1983 ordered the stoppage of one annual increment with cumulative effect of the respondent. The order dated 15th April, 1983 was challenged by the respondent before the authority under the Payment of Wages Act, Jalandhar who vide order dated 8th January, 1990 held that the deductions by virtue of the order dated 15th April, 1983 were illegal. This order of the authority under the Payment of Wages Act was challenged by the petitioner before the Additional District Judge, Jalandhar, who also vide order dated 5th December, 1990 dismissed the appeal filed by the State. It is against this order that the present revision has been filed.

3. Shri Vipin Mahajan, learned Assistant Advocate General appearing for the

State of Punjab contends that the order dated 15th April, 1983 passed by the General Manager, Punjab Roadways, Jalandhar could not have been challenged before the authorities under the Payment of Wages Act. He contends that vide the aforesaid order one increment with cumulative effect was ordered to be stopped. He relies on the judgment titled as State of Punjab and Ors. v. Baidev Singh, Conductor 1999(1) R.S.J. 201 to contend that the authority constituted under the Payment of Wages Act has no jurisdiction to interfere with the orders passed in disciplinary proceedings. It is, thus, contended by the learned counsel for the petitioner that the orders dated 8th January, 1990 and 5th December, 1990 were without jurisdiction.

4. Learned counsel for the respondent contends that the plea of the jurisdiction was never raised by the petitioner in the Court below and hence the petitioner has no right to raise such plea in the present revision petition. It is further contended by the learned counsel for the respondent that the Courts below have held that the order dated 15th April, 1983 was not for just and reasonable cause and the same was not passed after proper enquiry and, therefore, the order was wholly illegal and as such the order dated 15th April, 1983 was liable to be set aside.

5. I have heard learned counsel for the parties at length. A perusal of the case reported as State of Punjab and Ors. v. Baidev Singh (supra) as well as of General Manager, Punjab Roadways v. Ajit Singh, Conductor 2000(1) R.S.J. 276 clearly shows that the authorities under the Payment of Wages Act had no jurisdiction to examine the validity of the order of punishment imposed by the employer. In the present case, the punishment of stoppage of one increment with cumulative effect was inflicted upon the petitioner. The petitioner could not have challenged the punishment before the authority under the Payment of Wages Act. If a authority lacks the inherent jurisdiction to pass an order under an Act, then the order is non-est and the question of jurisdiction can be raised at any stage. As the validity of the order dated 15th April, 1983 could not be assailed under the Payment of Wages Act, therefore, the orders dated 8th January, 1990 and 5th December, 1990 are clearly without jurisdiction, and could, be challenged at any stage, even though the point regarding jurisdiction was not raised in earlier proceedings.

6. In view of the above, the orders dated 8th January, 1990 and 5th December, 1990 are set aside and the revision is allowed. The respondent is at liberty to challenge the order dated 15th April, 1983 before an appropriate forum.