
(1987) 11 SHI CK 0004

In the High Court Of Himachal Pradesh

Case No : C.M.P.S. No"s. 1425 of 1985 and 16 of 1987 in C.W.P No. 647 of 1984

Tirath Raj and Others

APPELLANT

Vs

H.P. State Electricity Board and Others

RESPONDENT

Date of Decision : 09-11-1987

Acts Referred:

Citation : (1988) 1 ShimLC 193

Hon'ble Judges : R.S. Thakur, J;P.D. Desai, J

Bench : Division Bench

Advocate : Devinder Gupta, in C.M.P. Nos. 1425 of 1985 and 116 of 1986, for the Appellant; P.A. Sharma and P.N. Nag, General in C.M.P. Nos. 1425 of 1985 and 116 of 1986, for the Respondent

Judgement

P.D. Desai C.J.

1. In both these applications, the Applicants, who are the Petitioners in Civil Writ Petition No. 647 of 1984, have made an identical prayer, namely, to issue interim directions to the Respondent-Board to pay to the Applicants the wages of Clerks and to regularise their services as Clerks on the establishment of the Respondent-Board. The learned Counsel for the Applicants states that for the time being the Applicant are not seeking any interim directions with respect to their regularisation or the payment to them of wages equal to those paid to regularly appointed Clerks. He submits that at this stage the relief be confined by directing the Respondent-Board to for with discontinue the invidious discrimination being made in the matter of payment of wages to two artificially created categories of daily-rated workmen who are performing the same duties, namely, (a) the daily-rated workmen who though employed as T-Mates, are performing the duties of Clerks and" are being paid the minimum wages of daily-rated Clerks as notified by the Respondent-Board from time to time and (b) the daily-rated workmen employed in the vacant posts of Clerks in the field offices through Employment Exchanges after completing all coda formalities and against sanctions accorded by the Board from time to time.

2. Now, these facts are not in dispute. The Applicants were employed as T-Mates on daily wages but they are performing the duties of Clerks. They are being paid the minimum wages of daily paid Clerks as notified by the Respondent-Board from time to time. Accordingly they are being paid at the rate of Rs. 628.50 per month at present. There are other daily-rated workmen employed by the field offices against the vacant posts of Clerks through Employment Exchanges after completing all the coda formalities and against sanctions accorded by the Respondent-Board from time to time who are being paid at a higher rate, namely, Rs. 1062.00 per month at the present. The provisions of the Standing Orders framed by the Respondent-Board are applicable to all the daily-rated workmen irrespective of the fact whether or not one is employed through the Employment Exchange.

3. From the admitted facts stated above in respect of these two categories of daily-rated workmen, the distinguishing feature, if any which surfaces is that one set of workmen is employed as T-Mates but is required to perform the duties of Clerks and is actually paid the minimum wages of daily paid Clerks, whereas the other set of workmen is employed against the vacant posts of Clerks through Employment Exchanges after completing all the coda formalities and against proper sanctions is paid at different rates. Although both the sets of workmen are employed on daily-rated basis and are performing the same duties, the first set of workmen is getting paid at a much lower rate than the second category inasmuch as the former is paid at the rate of Rs. 628.50 per month whereas the latter at Rs. 1062.00 per month.

4. The Court finds that neither the Central Government nor the State Government makes any distinction in the rates of wages payable to the daily-rated employees performing the same duties, while fixing the minimum rates of wages, on the basis of the source or method of recruitment. In other words, all daily-rated employees performing identical duties in respect of whom minimum rates of wages are fixed are entitled to such wages irrespective of whether the employees have been recruited through the Employment Exchange or otherwise, or whether their employment is made after completing the coda formalities or otherwise.

5. Against the aforesaid background, the Court is unable to discern the rationality of the distinction made in the matter of payment of wages on the basis of the source/method of recruitment, especially when the Board has conceded the claim of the Applicants, who are employed as T-Mates on daily wages but who are performing the duties of Clerks, to the payment of minimum wages of daily-rated Clerks as notified by the Respondent-Board from time to time.

6. Before the Court considers granting the relief to the Applicants, which they are claiming as aforesaid, it is expedient in the interest of justice to afford an opportunity to the Respondent-Board to justify the rationality, if any, of the distinction made as aforesaid for the purposes of the payment of wages to these daily-rated workmen on the basis of the source/method of recruitment. The

Respondent-Board may file a supplementary affidavit placing on record all the relevant facts, if it is so advised, on or before October 14, 1987.

7. To be listed on October 21, 1987.

8. Dasti copy on usual terms.