

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Civil Writ Petition No.17664 of 2006
Date of Decision:08.04.2015**

Lal Chand

....petitioner

Versus

Labour Court, Patiala and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

- 1.Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Ms.Sonia G.Singh, Advocate
legal aid counsel and
Mr.Lakhwinder Singh, Advocate
for the petitioner

Mr.V.K.Sandhir, Advocate
for respondents No.2 and 3

Mr.R.K.Verma, Senior DAG Punjab
for respondent No.4

ARUN PALLI, J.(ORAL):-

Vide order being assailed dated 16.02.2006 (Annexure P3), Labour Court, Patiala, declined the claim of the workman under Section 33 C(2) of the Industrial Disputes Act, 1947 (for short 'the Act') being not maintainable.

In short,workman claimed wages for having served the management even on Saturdays, being on an octroi duty w.e.f. 11.03.1989 to 31.12.2000, while, his counterparts or colleagues posted in the office of Municipal Council, had a five days a week. A sum of ₹ 80,158/-were claimed as detailed in document Ex.W3,

appended with the application. Facts, that were not in dispute before the Labour Court:

***“that there are two departments under the management and control of the organisation i.e. office and the octroi. A few officials remains in the office, while other remain at octroi duty. The workers in the octroi department can be interchangeably posted in the office and vice versa. There is common seniority of all the officials in both the departments. Those working in the office are given two days rest time and they have five days week, whereas those working at the octroi have to work six days in a week and they got only one day of rest in weeks time. Both the parties have consensus on the point that the workers remained posted in the octroi branch for the period as desired by the management.*”**

Labour Court, in reference to the decision rendered by the Division Bench of this Court, in **CWP No.20126 of 2002**, titled as “MC Bhatinda vs. POLC Bhatinda”, decided on 02.03.2004, observed that the workman could be entitled to the wages only for a period of three years, immediately preceding the date of filing of the application. Since, the workman, in the matter in hand, had moved an application on 13.12.2004, he could only be granted wages till 12.12.2001, and, for those Saturdays when he actually did an octroi

duty. But since the workman claimed relief w.e.f.11.03.1989 to 31.12.2000 only, his application was time barred. Accordingly, the relief prayed for, was declined. Thus, this petition.

I have heard learned counsel for the parties and perused the paper book.

Learned counsel for the workman contends that as after 31.12.2000, workman was never posted at octroi check point, how could he claim wages for a period w.e.f. December 2000 to December 2004. Therefore, he could be granted wages for 3 years preceding 31.12.2004, for the Saturdays, when he actually worked. And, in the situation, at best workman could be attributed the delay w.e.f.31.12.2000 to when he indeed moved an application under Section 33 (C)(2) of the Act i.e.13.12.2004. But that too would not be fatal as provisions of Section 33 (C)(2) do not postulate any limitation within which a claim has to be made.

Learned counsel for the management does not dispute that the provisions of Section 33(C) (2) do not envisage any limitation. He concedes that the workman was indeed entitled to the wages for those Saturdays when he actually performed octroi duty. And thus, his claim for wages could be considered only for the period i.e.31.12.2000 to 01.01.1998 that is for 3 years, immediately preceding the time he indeed did an octroi duty.

That being so, learned counsel for the parties contend that let the order dated 16.02.2006 (Annexure P3) rendered by the Labour Court be set aside and the matter be remitted to the Labour Court, Patiala for decision, afresh. Particularly, as the actual number

of days when the workman had actually served the management, on Saturdays, being on octroi duty, shall have to be determined. And only then the requisite amount, the workman is entitled to, could be commuted.

Accordingly, the order dated 16.02.2006 (Annexure P3), rendered by the Labour Court, Patiala, is set aside. The matter is remitted for a decision afresh. Though, needless to assert, all that has to be determined by the Labour Court, now would be the actual number of days when the workman indeed performed an octroi duty on Saturdays between 01.01.1998 to 31.12.2000. Parties to the lis, shall be at liberty to one opportunity each to adduce any further evidence if prayed for.

In the wake of the fact, the workman had moved his application as back as in the year 2004, i.e.more than a decade ago, Labour Court, Patiala, is requested to consider and decide the matter as expeditiously as possible. Parties are directed to cause appearance before the Labour Court, Patiala, on 04.05.2015.

The petition is disposed of, accordingly.

08.04.2015
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(ARUN PALLI)
JUDGE