

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. Civil Writ Petition No. 19938 of 2006
DATE OF DECISION : March 25, 2015

Nagar Council, Samrala
..... PETITIONER(S)

VERSUS

Surinder Pal & ors.
.... RESPONDENT(S)

2. Civil Writ Petition No. 19939 of 2006
DATE OF DECISION : March 25, 2015

Nagar Council, Samrala
..... PETITIONER(S)

VERSUS

Lachhman Singh & ors.
.... RESPONDENT(S)

3. Civil Writ Petition No. 19955 of 2006
DATE OF DECISION : March 25, 2015

Nagar Council, Samrala
..... PETITIONER(S)

VERSUS

Ram Sanjeevan & ors.
.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Animesh Sharma and Ms. Chand Chopra,
Advocates, for the petitioner.
Ms. Sonia G. Singh, Advocate, for respondent No.1.
Mr. A.P.S. Mann, Additional Advocate General,
Punjab, for respondent No.3.

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO
2. To be referred to the Reporter or not? YES
3. Whether the judgment should be reported in the digest? YES/NO

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ARUN PALLI, J. (Oral)

Order dated 11.05.2006 (Annexure P-1), passed by the Labour Court, Ludhiana, vide which the applications made by the workmen i.e. Surinder Pal, Lachhman Singh and Ram Sanjeevan, under Section 33-C(2) of the Industrial Disputes Act, 1947 (for short 'the Act'), claiming wages for having served on Saturdays, were partly accepted, is being assailed in this petition. It would be apposite to point out here that the workmen have not preferred to assail the order in question. Since, all the three applications, as indicated above, were decided vide a common order. Likewise, this order shall decide these three writ petitions (Civil Writ Petition Nos. 19938, 19939 and 19955, all of 2006).

Parties to the lis, hereinafter, would be referred to by their original positions before the Labour Court.

In short, in the applications moved by the workmen under Section 33-C(2) of the Act, they claimed that as they

served the Management on every Saturday, which happened to be an off day or a paid holiday in all the departments/public offices/ undertakings under the Punjab Government, therefore, they were entitled to wages for discharging duties on a holiday. The claim, that was set out in this regard reads, as thus:-

<i>Sr. No.</i>	<i>Appl No.</i>	<i>Name of the workmen</i>	<i>Designation</i>	<i>Wages per month</i>	<i>Amount claimed</i>	<i>Claim period</i>
1.	497/02	Surinder Pal	Fitter	9600/-	422400/-	2.5.1977 to 16.10.2002
2.	498/02	Lachhman Singh	Beldar	7200/-	360000/-	15.10.1976 to 16.10.2002
3.	499/02	Ram Sanjeevan	Mali/Beldar	7800/-	343200/-	2.5.1977 to 16.10.2002

In defence, it was pleaded, inter alia, that the workmen did not actually work during the disputed period on each and every Saturday. And in fact, Surinder Pal, Lachhman Singh and Ram Sanjeevan were getting ₹6400/-, ₹4700/- and ₹5000/-, per month, as Basic Pay, respectively. As the workmen availed leave on many occasions on Saturdays, Sundays and other Gazetted holidays, therefore, they were not entitled to claim wages for having worked on all the Saturdays. In fact, the actual number of days when the workmen, indeed, served the Management were depicted in Annexure A-1, appended with the written statement. It was claimed that the workmen did not have any existing right to claim salary for having worked on Saturdays beyond a period of 3 years, before filing of the applications.

On a consideration of the matter in issue and the evidence on record, the Labour Court found that the workman-

Surinder Pal (AW-1) conceded in his cross-examination that, at times, Saturdays fell on a Gazetted/ National holiday and he had also proceeded on leave once-twice on Saturday. Further, he could not say whether Annexure A-1, appended with the written statement, filed by the Management, was correct or not. That being so, it was observed that although the workman had claimed ₹42,400/- for having served on 1320 Saturdays, but nothing was brought on record to show as to how the said amount was calculated. Whereas, the document i.e. Annexure A-1, appended with the written statement, proved the number of Saturdays for which the workman had actually worked during the disputed period. As the case set out in the written statement itself was that the workman was not entitled to wages beyond a period of 3 years prior to the institution of the application, therefore, the workman was entitled to receive wages for having worked on Saturdays for a period of 3 years prior to the filing of the application i.e. 16.10.1999 to 16.10.2002. Further, as made out from the document (Annexure A-1), he remained on leave for a period of 9 days, therefore, he was held to have worked for 147 Saturdays i.e. $156 - 9 = 147$. Accordingly, and also in reference to the decision of the Hon'ble Supreme Court in Municipal Employees Union (Regd.) Sirhind and others vs. State of Punjab and others, (2000) 9 Supreme Court Cases 432, it was concluded that the workman was entitled to receive wages for having served on 147 Saturdays. Likewise, workman-Lachhman Singh was also held entitled for wages for having served on Saturdays w.e.f.

16.10.1999 to 16.10.2002 i.e. a period of 3 years before filing the application. As depicted in the document, Annexure A-1, since he remained on leave on 9 Saturdays during the said period, therefore, he actually worked on 147 Saturdays i.e. $156 - 9 = 147$. And even as regards Ram Sanjeevan, it was concluded that he, too, was entitled to receive wages for having served on Saturdays w.e.f. 16.10.1999 to 16.10.2002. And as is made out from the document (Annexure A-1), he remained on leave on 14 Saturdays, therefore, he was entitled to wages for 142 days i.e. $156 - 14 = 142$. Resultantly, workmen Surinder Pal and Lachhman Singh were held to have worked for 147 Saturdays from 16.10.1999 to 16.10.2002, and Ram Sanjeevan was held to have worked for 142 Saturdays. The Management was directed to make the requisite payment within 6 months with interest at the rate of 6% per annum, from the date of application i.e. 16.10.2002.

This is how, as indicated above, the Management is before this Court in this petition.

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

Learned counsel for the petitioner simply seeks to reiterate the submissions that were advanced before the Labour Court and rejected after a due and comprehensive consideration. All what is urged is that Rule 17(a) of the Punjab Municipal Safai Karamchari Service Rules, 1984 (for short '1984 Rules'), envisages that each member shall have a paid holiday once a week and 3 National Holidays i.e. 26th January, 15th

August and 2nd October, and 4 other holidays at the option of the member on any of the festivals specified in Appendix 'C'. He contends that as the workmen were governed under these Rules, therefore, they were obligated to work for 6 days a week and, thus, their claim for wages for having worked on Saturdays was wholly misconceived.

Per contra, learned counsel for the respondent-workmen contends that the service conditions of the workmen were not governed by 1984 Rules and, in fact, by Punjab Municipal Employees (Class IV) Service Rules, 1986 (for short '1986 Rules'). And the workmen were employed as Class-IV employees i.e. Fitter, Beldar and Mali/Beldar. She contends that the 1986 Rules do not contain any provision which envisages a 6 days' week for the employees governed under the said Rules. She further submits that since the Labour Court accepted the claim of the workmen on the basis of the document (Annexure A-1), produced by the Management itself, that showed the actual number of Saturdays during the preceding three years from the date of filing of the applications, workmen had worked for, no interference is warranted in the order being assailed.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that these petitions are wholly devoid of merit and are, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Concededly, the case set out by the Management itself in its written statement was that the workmen were not entitled to wages beyond a period of three years preceding the

date of their applications. Document (Annexure A-1) was proved by none other than the Management to show that the workmen i.e. Surinder Pal and Lachhman Singh, had, indeed, served the Management for 147 Saturdays, and Ram Sanjeevan for 142 Saturdays, from 06.10.1999 to 16.10.2002. Despite that being so, the workmen could still be deprived of the wages even if they had indeed served on Saturdays, if under the Rules governing their service, they were obligated to serve 6 days in a week. But that is not so. Reliance placed by learned counsel for the petitioner upon 1984 Rules is wholly misplaced. Concededly, workmen were engaged as Class-IV employees and were working as Fitter, Beldar and Mali/Beldar, respectively. The specific set of Rules that govern their service conditions are the 1986 Rules, the fact that is not disputed by the learned counsel for the petitioner. Learned counsel for the petitioner could not point out any provision under the 1986 Rules which postulates a 6 days week for a Class-IV employee. So much so, neither anything in this regard was set out by the Management in its written statement before the Labour Court nor any such argument was advanced. Not just that, nothing is placed on record even of this petition to substantiate such a plea.

Learned counsel for the petitioner could not point out as to how the conclusion that has been arrived at by the Labour Court was either contrary to the position on record or suffered from any material illegality.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law, to interfere with

the order being assailed in the present petition. The same being devoid of merit is, accordingly, dismissed.

MARCH 25, 2015
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(ARUN PALLI)
JUDGE