

CWP No.14995, 26302, 28564, 28587, 28643,
28652, 28660, 26298 and 27292 (O&M) of 2013
CWP No.26042 of 2014 (O&M)
CWP Nos.20208, 20209, 20214, 20218, 20504, 20740,
20742, 21631, 21635 and 21859 of 2015

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.14995 of 2013

The General Manager, Punjab Roadways,
Ludhiana and another
... Petitioners

Versus

Sh. Satwinder Singh and another
... Respondents

2. CWP No.26302 of 2013

The General Manager, Punjab Roadways,
Ludhiana and another
... Petitioners

Versus

Gurpal Singh and another
... Respondents

3. CWP No.28564 of 2013

The General Manager, Punjab Roadways,
Ludhiana and others
... Petitioners

Versus

Sh. Swaran Singh and another
... Respondents

4. CWP No.28587 of 2013

The General Manager, Punjab Roadways,
Ludhiana and another
... Petitioners

Versus

Harjang Singh and another
... Respondents

5. CWP No.28643 of 2013

The General Manager, Punjab Roadways,
Ludhiana and another
... Petitioners

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Versus

Mohanjit Singh and another ... Respondents

6. CWP No.28652 of 2013

The General Manager, Punjab Roadways,
Ludhiana and another ... Petitioners

Versus

Smt Kamaljit Kaur and others ... Respondents

7. CWP No.28660 of 2013

The General Manager, Punjab Roadways,
Ludhiana and others ... Petitioners

Versus

Harjinder Singh and another ... Respondents

8. CWP No.26298 of 2013

The General Manager, Punjab Roadways,
Ludhiana and another ... Petitioners

Versus

Sh. Randhir Singh and another ... Respondents

9. CWP No.27292 of 2013 (O&M)

The General Manager, Punjab Roadways,
Ludhiana and another ... Petitioners

Versus

Sh. Chuhar Singh and another ... Respondents

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10. CWP No.26042 of 2014 (O&M)

General Manager, Punjab Roadways,
Ludhiana and another ... Petitioners

Versus

Sh. Bira Singh and another ... Respondents

11. CWP No.20208 of 2015

Punjab Roadways, Muktsar and another ... Petitioners

Versus

Balbir Singh and another ... Respondents

12. CWP No.20209 of 2015

Punjab Roadways, Sri Mukatsar
Sahib and another ... Petitioners

Versus

Balour Singh and another ... Respondents

13. CWP No.20214 of 2015

State of Punjab and another ... Petitioners

Versus

Devi Dayal and another ... Respondents

14. CWP No.20218 of 2015

State of Punjab and others ... Petitioners

Versus

Jaswinder Singh and another ... Respondents

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15.

CWP No.20504 of 2015

State of Punjab and another

... Petitioners

Versus

Harjit Singh and another

... Respondents
16.

CWP No.20740 of 2015

Punjab Roadways, Mukatsar
and another

... Petitioners

Versus

Sukhdev Singh and another

... Respondents
17.

CWP No.20742 of 2015

Punjab Roadways, Sri Mukatsar
Sahib and another

... Petitioners

Versus

Gurdeep Singh and another

... Respondents
18.

CWP No.21631 of 2015

Punjab Roadways, Muktsar
and another

... Petitioners

Versus

Gurbachan Singh and another

... Respondents
19.

CWP No.21635 of 2015

State of Punjab and another

... Petitioners

Versus

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Ajit Singh and another

... Respondents

20.

CWP No.21859 of 2015

Punjab Roadways, Mukatsar
and another

... Petitioners

Versus

Ranjeet Singh and another

... Respondents

Date of Decision: 01.12.2015

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Harkesh Manuja, Addl. AG, Punjab.

Mr. Onkar Rai, Advocate,
for R-1 in CWP Nos.14995, 26302, 28564, 28587, 28643,
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Mr. Harjot Singh Bedi, Advocate,
for R-1 in CWP No.26042 of 2014.

Mr. A.K. Khunger, Advocate,
for R-1 in CWP Nos.20214 & 20742 of 2015.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. This order will dispose of 20 writ petitions cited above. The facts are taken from CWP No.14995 of 2013.

2. The State of Punjab through the General Manager, Punjab Roadways, Ludhiana has approached this Court under Article 226 & 227 of the Constitution of India praying for setting aside of the order of the Labour Court passed under section 33-C (2) of the Industrial Disputes Act, 1947 (“the Act”). The Labour Court has allowed the claim applications preferred

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by Conductors and Drivers of Punjab Roadways who had once been under threat of being declared surplus and losing their jobs because of Stage Carriage Buses being declared condemned and not road worthy. They would have lost their jobs but for the intervention of the union of workers who raised the hue and cry which led to a settlement between the Punjab Roadways and the workmen affirming that the workers facing retrenchment would be absorbed against future addition of the fleet of buses and consequently the existing workers by give and take in collective bargaining were prepared to sacrifice their rights to offset loss of jobs to their co-workers whose cause they had espoused to save them from loss of livelihood in the foreseeable future. This led to a settlement dated September 21, 1991. The settlement was not honoured.

3. The aggrieved Conductors and Drivers in order to enforce their rights approached the Labour Court through applications presented under Section 33-C (2) of the Act for payment of amounts of overtime in discharge of their duties while working at odd hours plying public transport buses. These applications have been allowed and amounts due have been computed and have been held payable by the management in all 20 cases to the workmen.

4. Mr. Manuja submits that the agreement could not be produced before the Labour Court and if it was then the orders would not have been passed because the right claimed by the workman would have ceased to be a pre-existing right in terms of the settlement which deprives them of overtime wages to balance out the rights between the workers union and the

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smaller group of workmen who were facing retrenchment but were saved by the trade union activity. It is said that the original agreement was not available on record of the Punjab Roadways, Ludhiana and it was only after due diligence and effort that the Department came to know that the settlement became subject matter of a Civil Suit No.147 of 2005 titled *Jaswant Singh and others vs. The General Manager, Punjab Roadways, Nawashahar and others* in which a copy of the agreement was exhibited on record. From there the State has retrieved the agreement and placed it on the record of the writ petition for the first time. He submits that the document is so crucial and vital for the determination of this case that it cannot be ignored or wished away. To that extent, Mr. Manuja is right. The document which has material bearing on the case which might govern its fate and to be taken cognizance of in order to do justice and to prevent a situation which may lead to miscarriage of justice. However, even if that contention is true then it is pointed out by the learned counsel for the respondent-workman based on information received under the Right to Information Act, 2005 and placed on the record with their written statement at Annexure R-1/1 at page 52 of the paper-book that in 17 cases the order passed by the Labour Court has been implemented. The material information is contained in the information supplied with respect to date of the order, the amount payable and the date of disbursement are recorded. These payments have been made from 2010 to 2012 while the last set of orders were passed on August 04, 2011.

5. There is nothing on record to suggest that the State challenged

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the orders in respect of 17 cases mentioned in Annexure R-1/1 and they are hence treated as final.

6. The present petition was filed on July 05, 2013 against the award dated September 20, 2012 and there is a considerable delay in filing the writ petitions in the connected cases from 2013 to 2015 even though in 17 cases the awards have been satisfied. If this is the position where a bulk of the orders have been implemented then the rest must deserve the same treatment. By this act of implementing the orders in 17 cases without calling them in question, the State will be seen as having waived their rights under the agreement. Nor would this Court enforce the agreement in favour of the State in the anomalous situation created by it in implementing 17 orders and thereafter approaching this Court challenging the remaining.

7. On the above discussion, the petitions are dismissed on the ground that State cannot indulge in unfair and unequal treatment of a homogeneous class of Conductors and Drivers when some of whom have earned the benefits, while in the case of others the State attempts to deprive them by filing this and the accompanying petitions.

8. For the reasons recorded above and without going into the question of right being pre-existing or not the petitions are dismissed as being without merit.

(RAJIV NARAIN RAINA)
JUDGE

01.12.2015
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