

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.14208 of 2015 (O&M)

Date of decision: 31.8.2015

Municipal Corporation, Amritsar ... Petitioner

Vs

Presiding Officer Industrial Tribunal & Anr. ... Respondents

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

Present: Mr.Sanjeev Soni, Advocate for the petitioner

1.To be referred to the Reporter or not?

2.Whether the judgment should be reported in the Digest?

...

Rajiv Narain Raina, J. (Oral)

The petitioner was working as a Driver-cum-Operator in the Fire Brigade Department of the Municipal Corporation, Amritsar. The case of the petitioner is that he, besides his normal duty hours, also worked overtime with the respondent and he is, therefore, entitled to receive and recover over time arrears from the respondent totalling a sum of Rs.1,09,361/-. The petitioner filed an application under Section 33-C (2) of the Industrial Disputes Act, 1947 (for short "the Act") before the Industrial Tribunal, Amritsar to claim the arrears of over-time.

RW-1, Mr.Prince, Junior Assistant of Municipal Corporation, Amritsar has deposed in the witness box on behalf of the Management that the duty of

Fire Brigade Staff is for eight hours. He admitted that if any staff member of the Fire Brigade Department works over eight hours, he has to be paid extra emoluments for that period. He has also admitted that during rescue and fire calls, the employees who perform extra work during that extended period, had to be paid extra emoluments. He has further admitted that the workman did over time work. The Labour Court had no reason not to believe the deposition as truthful and has allowed the claim of the workman and directed the Municipal Corporation to calculate the over-time work done by the workman and pay him the amount so assessed within two months of the publication of the order in the Official Gazette.

I have heard learned counsel for the petitioner-Municipal Corporation, Amritsar. If extra emoluments are to be paid for extra work done by a workman, then such work continues to be a pre-existing right based on extra duties. It hardly matters whether payment for extra work is called “extra emoluments” or “over-time”. Nomenclature would make no material difference. I would, therefore, find no jurisdictional error in the decision of the Industrial Tribunal in the proceedings under Section 33-C (2) of the Act and nor is it vitiated by an error of law apparent on the face of record. The findings of the Industrial Tribunal are neither perverse nor irrational and are based on the statement of the workman which could have been refuted by other evidence by the Management, but that was not so done.

Findings of fact recorded by the Labour Court are not open to be disturbed in writ jurisdiction under Article 226 of the Constitution. The area of interference against awards of Courts and Tribunals by the High Court is indicated by the Supreme Court in the lead ruling in **Syed Yakoob v. K.S.**

Radhakrishnan, AIR 1964 SC 477. The limited role High Courts have in

judicial review of awards of Labour Courts and Tribunals has been explained recently by the Supreme Court in a spate of judgments including in **Shalini Shyam Shetty & Anr. v. Rajinder Shankar Patil**, (2010) 8 SCC 329; **Jai Singh & Others v. Municipal Corporation of Delhi & Anr.**, (2010) 9 SCC 385; **Harjinder Singh v. Punjab State Warehousing Corporation**, (2010) 3 SCC 192 and **Anoop Sharma v. Executive Engineer, Public Health Division No 1, Panipat, Haryana**, (2010) 5 SCC 497.

For the foregoing reasons, I find no ground meriting interference with the award of the Industrial Tribunal. This writ petition is accordingly dismissed.

(RAJIV NARAIN RAINA)

JUDGE

31.8.2015

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