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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23626 of 2011 (O&M)
Date of Decision: - 11.8.2015

Punjab State Transmission Corporation Ltd and another .....Petitioners

vs.

Sohan Singh and another .....Respondents

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

Present: - Mr. Sandeep Bhardwaj, Advocate for the petitioners.

Mr. S.K.Rattan, Advocate for respondent No. 1.
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Rajiv Narain Raina, J (Oral)

Having read the order passed by the Labour Court, Jalandhar dated 27.9.2011, I do not find any error, perversity or fundamental flaw when it allowed the application under Section 33 C (2) of the Industrial Disputes Act, 1947, directing the Punjab State Electricity Board, Patiala to pay the money due to the workman for 221 days of earned leave available in his pension account as per his service book and record, copies of which were produced as Ex. R-2 by the management itself in evidence before the Labour Court. The respondent workman had served the Board from September 29, 1981 to September 30, 2003 as a work charged driver and retired from service on attaining the age of superannuation. The Labour Court has fortified its decision on the strength of certified standing orders dated 27.2.1980 as modified by the Board for its industrial establishment-the Mukerian Hydel Project, Talwara as duly certified by the competent authority under the

Industrial Employment (Standing Orders) Act, 1946.

The certified and modified standing orders on the subject of earned leave read as under: -

> "15(1) b: Earned Leave: - A workmen may be granted 30 days earned leave with wages per calendar year and the accumulation of earned leave by a workman shall be restricted to 360 days. There will be no restriction of 120 days of availing of earned leave at a time and encashment of leave at the time of retirement shall be admissible upto 240 days."

It is not disputed that the respondent is not a "workman" as by definition in the Act or that he worked in the Mukerian Hydel Project as a work charged employee remaining posted at various stations as per the transfer and posting orders issued by the Board during his service.

The amended standing order 15(1)b grants 30 days earned leave with wages for every calendar year of service rendered in the Board. But the accumulation of earned leave by a workman has been restricted to a ceiling of 360 days. The period of service rendered by the respondent-workman did not entitle him to full earned leave and the Labour Court after appreciating the evidence on record produced by the Management itself has found from the papers that the workman was entitled in all to 221 days of earned leave. The workman did not dispute this figure. Since, the standing orders were modified about three months after the petitioner was appointed as a work charged employee with the PSEB therefore they are applicable to him. The operation of the standing orders are not made dependant on regular service since all workmen are entitled to reap the benefit. This right is manifestly a pre-existing right which can be computed in terms of money.

It is lastly the submission of learned counsel for respondent Board that the petitioner has filed a writ petition which is pending consideration before this Court in which he has claimed regularization of his services retrospectively on the basis of regularization granted to an erstwhile junior in the work charge service of the Board. Counsel further submits that this petition be tagged on to the said petition so that both the petitions can be heard together. I fail to see any connection between their subject matters to link this case with the pending matter only to prolong the present case. One is for earned leave whilst the other is for regularization of services from a back date when a junior was afforded the concession. Hence, both the petitions need not be tagged together as there can be no conflict between the two in decision making. Even if the request is accepted it would only delay the proceedings. In the present petition, already four years have gone by to the financial detriment and prejudice of the workman and the order impugned remains without compliance and so ironically arising from execution proceedings itself under section 33 C (2) of the Act.

Consequently, the order of the Labour Court is upheld in *toto* including interest awarded to run at 8% w.e.f. 1.1.2004. The principal and interest calculated up to date is directed to be paid to the workmen within 30 days from the date of receipt of the certified copy of this order, failing which interest will accrue @ 24% per annum simple from the expiry of 30 days reckoned as above till realization.

It is further ordered that in view of the first interim order passed on December 19, 2011 by this Court, the letter and spirit of the same is given effect to and thus the Board will also be liable to pay Rs. 33,000/- as costs of litigation and damages to the respondent-workman.

For the foregoing reasons, I do not find any good and sufficient reason to interfere in the impugned order passed by the Labour Court on September 27, 2011 and would dismiss the petition with the above directions.

(RAJIV NARAIN RAINA)
JUDGE

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