

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 2076 of 2015(O&M)

Date of Decision: 09.2.2015

State of Punjab & others

--Petitioners

Versus

Jagdish Chander & another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Anant Kataria, A.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

This order shall dispose of CWP No. 2076 of 2015 (State of Punjab & others Vs. Jagdish Chander & another) and CWP No.2121 of 2015 (State of Punjab & others Vs. Jasbir Singh & another) as common issue is involved in both the petitions.

State of Punjab through Secretary, Department of Transport, Punjab has invoked the writ jurisdiction of this Court seeking quashing of orders of even date i.e. 6.9.2012 (Annexure P-1), passed by the Industrial Tribunal-cum-Labour Court, U.T., Chandigarh in terms of which applications filed by respondents-workmen under section 33-C(2) of the Industrial Disputes Act claiming over time allowance, have been allowed.

Learned State counsel has raised a solitary submission that the claim of the workmen was highly belated and could not have been granted being time barred. Counsel would rely upon Rule 2.25 of the Punjab Financial Rules to contend that the claim of the workmen as regards over time allowance had to be submitted within a period of one year from the date it became due and failing which it was presumed to be relinquished.

Having heard learned State counsel at length and having perused the pleadings on record, this Court is of the considered view that the instant writ petitions are wholly devoid of merit.

Workmen had set up a claim on the premise that while serving as Conductor and driver respectively, they had worked for more than 8 hours a day and 48 hours in a week and were entitled to over time wages as per Rule 27 of the Punjab Motor Transport Workers Rules, 1963. AW-2, Sh. Davinder Singh, Conductor No.116, Punjab Roadways, Chandigarh, who was serving as an Assistant Duty Clerk, had duly appeared before the Labour Court and had stated that as per the summoned record the workmen had been performing their duties on the Chandigarh-Jaipur route and had been on duty as per details furnished in the annexure along with the applications preferred by the workmen under Section 33-C(2) of the Act. He had also stated that the workmen were entitled for the over time wages as per rules.

Furthermore, AW-3 Sh. Surinder Pal, who was working as an Overtime Assistant Clerk had also deposed that Conductors and Drivers are entitled for overtime wages and as per record the workmen were entitled for such allowance for 5 hours time upon performing duties from Chandigarh to Jaipur.

The entitlement to the overtime allowance and as has been noticed by the Labour Court in the impugned award has not been disputed by the learned State counsel even during the course of hearing today. As regards the claim of the workmen being time barred, learned State counsel could not controvert the position in law that under Rule 2.25 of the Punjab Financial Rules there was no absolute bar with regard to the claim of

overtime allowance set up by the workmen. It also stands conceded that under Rule 2.25 itself the claim could be admitted even after the expiry of one year but with prior approval of the competent authority.

The Labour Court in the impugned award has adopted a valid and balanced approach in terms of allowing the application for overtime allowance which was essentially in the nature of a pre-existent right and keeping in view the objection raised by the employer as regards delay in setting up such claim, has rejected the prayer of the workmen with regard to interest on the overtime wages.

The Labour Court has reasoned that even if there was any delay on the part of the workmen in raising such claim, the same had worked to his own detriment and prejudice as the amount in question has come to their hands at a belated stage and on the other hand it is the employer, who has derived benefit on account of such lapse.

This Court does not find any infirmity in the impugned award dated 6.9.2012 at Annexure P-1, whereby the claim of overtime allowance has been allowed strictly as per entitlement under the Punjab Motor Transport Workers Rules, 1963.

Strangely, even though, in the instant writ petition the only ground of challenge raised was that of delay, yet, no explanation has been forthcoming at the hands of the State Govt. in having chosen to file the instant writ petition in the year 2015 in respect of an award passed on 6.9.2012.

Writ petitions are, accordingly, dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

February 09, 2015
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