

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 22.07.2016

CWP No.15865 of 1996

Ram Kumar

...Petitioner

Versus

Haryana State Electricity Board & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vishwajeet Singh and Mr. K.P.Singh, Advocates,
for the petitioner.

Mr. Pardeep Singh Poonia, Advocate,
for the respondents.

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

RAJIV NARAIN RAINA, J.(ORAL)

The case of the petitioner is foreclosed by his own act in approaching the Labour Court under Section 33(C)2 of the Industrial Disputes Act, 1947. In those proceedings, the petitioner claimed the difference of salary between Rigger and Chargeman, which was turned down by the Labour Court, Panipat amongst many applications filed in 2010 and decided on 28.09.2012.

In this petition, which was filed many years ago, the petitioner has claimed arrears of difference of salary between the post of Rigger and Telephone Operator. There is no order appointing the petitioner as Telephone Operator and his case is built on the plea that he is *de facto* worked as a Telephone Operator or was a person assisting the Telephone Operator and, therefore, is entitled to difference of salary for work done. It is, however,

the hilt as was required from a Telephone Operator. In absence of such a plea, it would not be apt to apply the principles laid down in Smt. P. Grover Vs. State of Haryana & Another, AIR 1983 SC 1060 : 1983 SCR (3) 654 or apply the doctrine of quantum meruit or the principle of 'equal pay for equal work'. The petitioner cannot be seen pursuing two similar goals at the same time i.e. one against the post of Chargeman and the other against the post of Telephone Operator, as that would be self-contradictory. If one is lost the other must fail.

Broadly speaking, the claim in the application under Section 33(C) 2 of the Industrial Disputes Act, 1947 is in pith and substance the same as in this petition. It is not a disputed fact that the service of the petitioner has been regularized as a Rigger in 1993. The petitioner's claim that similarly situated persons are drawing more salary than him is based on the difference in salary of the post and there is, therefore, no apparent violation of Articles 14 & 16 of the Constitution. Mere recommendation made in favour of the petitioner by some officers of the Board would not give rise to an actionable claim based on a vested and accrued right.

I would, therefore, not think it proper or justified to interfere in the matter since the petitioner admittedly was not qualified to hold the post of Telephone Operator. The assertion that the petitioner was qualified has been stoutly rebutted in reply to Para.4 of the petition. There is no replication filed controverting this fact and therefore, it is accepted as the correct position on record. The respondent Board made just an arrangement by taking the work at its telephone exchange from a daily-wager to assist his seniors. This act may appear to be exploitative in character, but will not found a claim in law to decree.

As a result of the foregoing discussion, the present petition is found wholly lacking in merit and is ordered to stand dismissed.

22.07.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE