

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-15964-1996

Date of decision : 16.02.2017

Union of India and others

...Petitioners

Versus

Presiding Officer, Labour Court, Bathinda and another ...Respondents

CORAM: HON'BLE MR. RAJIV NARAIN RAINA

Present: None for the petitioner.

Mr. D.D.Bansal, Advocate,
for respondent No.2.

RAJIV NARAIN RAINA J. (ORAL)

No-one appears on behalf of the petitioner despite notice in the cause list that adjournments will not be granted in old cases taken up in the urgent list for final disposal.

Since it is an old case, I have proceeded to hear the learned counsel representing respondent No.2 for final disposal and with his help, have perused the record on file.

The Labour Court had returned finding of fact that there was no fault of the claimant for the period 15.09.1992 till 16.06.1993, when the applicant-respondent was being transferred by the department from one place to other without issuing relieving orders or Railway passes for travelling and reporting for duty. The claimant was restored on duty on 17.06.1993 with the intervention of the Labour Court, in the proceedings under Section 33-C (2) of the Industrial Disputes Act, 1947. The Labour Court has allowed the claim application and granted the arrears of salary for the period 15.09.1992 to 16.06.1993 as money due by holding the right to

be pre-existing and was disturbed illegally and arbitrarily by the petitioner-

respondent. The ensuing dispute as to non-payment of salary in the peculiar circumstances falls within the jurisdiction of the court in execution proceedings and the Presiding Officer, Labour Court, Bathinda in his impugned order dated 10.06.1994 committed no illegality either on facts or in law to compute money to which the claimant was entitled to as a matter of right by reason of wrongdoing by making the workman a shuttle cock in the guise of transfers, the expenses of which movements were expected by the Railway administration to be shelled out of the pocket of the low paid employee. The Labour Court has rightly allowed the claim application and for good reason. I find no merit in this petition filed by the Union of India and would dismiss it.

It may be noted that the orders of Labour Court was challenged in the first instance by the Railway Administration before the Central Administrative Tribunal, Chandigarh Bench, Chandigarh, in O.A. No.167/PB/1995, which proceeding was withdrawn to approach the proper forum. The Tribunal passed the order in the light of the judgment passed by the Supreme Court in Civil Appeal No.12074 of 1995 in SLP No.21776 of 1995.

While dismissing the petition, the respondent, a low salaried employee, is held entitled to interest @ 6% per annum on the unpaid salary till realization.

16.02.2017
adhikari

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned : Yes

Whether Reportable : No