

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.3536 of 1996
Date of Decision: 9.3.2017

Haryana Urban Development Authority and another
... Petitioner

Versus

Presiding Officer, Industrial Tribuna-cum-Labour Court and Anr.

Respondents

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

Present: Mr.Prateek Mahajan, Advocate for the petitioner

None for respondent no.2

RAJIV NARAIN RAINA, J. (Oral)

1. None is present on behalf of respondent no.2. On the previous date also, no one appeared on his behalf. It has been made clear in the Office Note in the Cause List that no adjournment will be granted in old Regular Cases which are taken up for final disposal in the Urgent List. This writ petition has been filed in the year 1996. Two decades have flown by. This Court is left with no option, but to dispose of this petition after hearing the learned counsel for the petitioner.

2. Claim based on the principle of “Equal Pay for Equal Work” cannot be determined in execution proceedings under Section 33-C (2) of the Industrial Disputes Act, 1947 (for short “the Act”) and only existing or accrued rights can be adjudicated, but a new right cannot be created by the Labour Court acting under the said provision of law.

3. In the present case, the plaintiff respondent, a process server working with the Haryana Urban Development Authority

(HUDA) claimed equal pay as admissible to Process Servers in the Subordinate Courts in Haryana which plea is not maintainable before the Labour Court in proceedings under Section 33-C (2) of the Act. Close to the point is the law laid down in Municipal Corporation of Delhi vs. Ganesh Razak, 1995 (1) SCC 235 which has been followed by this Court many times over including by Single Bench in Hafed vs. Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak, 1995 (6) SLR 132. In view of the settled legal position that only existing or accrued rights can be adjudicated, but a new right cannot be created by the Labour Court acting under Section 33-C (2) of the Act, the impugned order cannot be sustained and has to be set aside.

4. As a result, this petition is allowed. The impugned order dated 20th November, 1995 (Annex. P-3) is quashed.

(RAJIV NARAIN RAINA)
JUDGE

9.3.2017
MFK

Whether speaking/reasoned

Yes

Whether Reportable

No