

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

LPA No.657 of 2017 (O&M)

Date of Decision : 30.11.2017

Kaushalya Rani

..... Appellant

Versus

Presiding Officer and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE MAHESH GROVER

HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. M.S.Longia, Advocate for the appellant.

Mr. Harshit Jain, Advocate for respondent No.2.

Mr. J.S.Gill, Advocate
for respondent No.3.

MAHESH GROVER, J. (Oral)

CM No.1365-LPA of 2017

This is an application for condonation of delay of 187 days in filing the appeal.

Heard. For the reasons, mentioned in the application, the same is allowed. Delay of 187 days in filing the appeal is condoned.

LPA No.657 of 2017

The entitlement of the employees working as an octroi clerk, to monetary benefits for working on Saturdays and Sundays, was answered in the affirmative by the Hon'ble Supreme Court on 15.03.2000. Thereafter, proceedings were initiated by the husband of the present appellant. The Labour Court allowed the plea of the workman vide its award dated 10.02.2009, determining the amount of Rs.1,92,566/- to be paid to the claimant. This was challenged by the Municipal Council, Ropar (respondent No.2 here) by way of CWP No.18859 of 2009 which was disposed of by remanding the matter back to the Labour Court with a

direction that it compute the number of Saturdays and Sundays to establish the entitlement and the amount to be disbursed to the workman with interest @ 6% per annum. The Labour Court then once again reviewed the matter and dismissed the claim which was challenged by the present appellant. In the meantime, the appellant's husband who was the employee of the Municipal Council disappeared and the Court pronounced his civil death in 2016. In this manner, the appellant has been pursuing the matter.

The writ Court accepted the plea and passed the following directions:-

“In view of the above, it is crystal clear that the deceased employee Darshan Kumar is entitled to benefit of performing duties as octroi clerks at octroi posts on Saturdays and Sundays. However, neither the petitioner nor the respondents-Municipal Council, Ropar, have concrete material to determine number of Saturdays and Sundays work discharged by the then deceased employee Darshan Kumar. It is not disputed that the deceased employee Darshan Kumar has discharged the duties of the post of clerk in the octroi post for the reasons that Municipal Council, Ropar has failed to produce any material to show that the husband of the petitioner has not worked on Saturdays and Sundays.

In view of these facts and circumstances, Municipal Council, Ropar is directed to determine the amount with reference to the similarly situated clerks who were appointed and retired during the period from 1998 to 1999 and take average of Saturdays and Sundays of other clerks, who worked on those days and who have been granted the benefit of work performed on Saturdays and Sundays. Such average determination be made within a period of three months and the monetary benefits shall be released to the legal heirs of the deceased employee Darshan Kumar within a period of two

months from the date of determination.”

The solitary dispute that survives now is the claim for interest on the accrued payment. It is not in dispute that subsequent to the orders of the writ Court, the Municipal Council has paid the amount to the appellant but the liability to pay the interest is resisted.

After hearing the learned counsel for the parties, we are of the opinion that the prayer for grant of interest is not unjust considering that concededly the employee had employed with the Municipal Council for the disputed periods of Saturdays and Sundays and is entitled to the emoluments which were also acknowledged by the Hon'ble Supreme Court in the year 2000 itself. This should have given a quietus to the controversy with the Municipal Council determining the amount on its own to release the payments to the claimants, instead the issue lingered on for fairly a long time and now after 17 years, the amount has been released. The interest of justice would demand that interest be also paid from the date when the proceedings were initiated or looking at it alternatively when the right was acknowledged by the Hon'ble Supreme Court. Therefore, we modify the judgment of the Hon'ble Single Judge to include the interest @ 6% per annum from 2000 when the proceedings were initiated before the Hon'ble Court till the date of payment of the principal amount.

The instant appeal stands disposed of accordingly.

(MAHESH GROVER)
JUDGE

30.11.2017
mamta-M

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No