

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

CWP No.16567 of 2002 (O&M)

Date of decision: 30.07.2018

Balwinder Singh and others

...Petitioner(s)

Versus

Punjab State Electricity Board and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Arora, Advocate for the petitioner(s).

Mr. Y.P. Khullar, Advocate for the respondents.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioners seek issuance of a writ in the nature of certiorari/mandamus directing the respondents to extend the benefits to the petitioners of pay/wages for each of the Saturday and other gazetted holidays on which they have worked in terms of law laid down by Hon'ble the Supreme Court in CA-8434-1997 titled as Municipal Employees Union Vs. State of Punjab and others, decided on 15.03.2000 (Annexure P-3).

The petitioners are Class III and IV employees and have been working on different posts with the respondent-Department. The precise grievance of the petitioners is that since there is no provision in the Punjab State Electricity Board Rules/Bye-laws requiring the petitioners to have six days working per week, therefore, they be given the benefit of five days working as availed by their counterparts who

are working in office. The petitioners posted in field work are made to work for six days in a week, thus, are being discriminated despite the fact that the same rules and regulations are applicable to them and their counterparts.

On the other hand, the learned counsel for the respondents refers to Annexure R-1, the judgment passed by Hon'ble the Supreme Court in Civil Appeal No.2235 of 2008 titled as Sat Pal Puri Vs. Punjab State Electricity Board and others, decided on 21.02.2008 to submit that in view of Annexure R-1, the petitioners are not entitled to the benefits claimed by them.

Heard, learned counsel for the parties and perused the record.

In **Sat Pal Puri's** case (supra) Hon'ble the apex Court has observed as under:-

“The short question which arises for our consideration is as to whether the decision of this Court in Municipal Employees Union (supra) is applicable to the facts and circumstances of this case. The Punjab State Electricity Board was constituted and incorporated in terms of Sections 5 and 12 of the Electricity Supply Act, 1948 (for short, 1948 Act). Under Section 79(c) of the 1948 Act, the Board subject to compliance of the statutory requirements contained therein is entitled to frame its own regulations. It is permissible for the Board to frame different regulations for different categories of employees. It is a department of the State of Punjab.

It is stated that Appellants herein belong to the technical category, service grade III, requiring to perform field duties. Supply of electricity is a public utility function of the Board. The

Board therefore is required to have technical staff at their disposal, 24 hours a day, seven days a week.

It has been contended before us that in fact several regulations have been framed by the Board in this behalf. Several agreements have also been entered into by and between the Union and the Board. Some of the employees are also governed by the provisions of the 1948 Act.

Our attention has also been drawn to the fact that three categories of workmen are governed by different terms and conditions of service in regard to enjoyment of holidays; viz.

- a) Technical Staff (Regular) Work charged covered under the Factories Act 1948.*
- b) Regular Technical Field Staff not covered under the Factories Act.*
- c) Work charged employees not covered under the Factories Act.*

It has also been stated that local outdoor duty allowance (LODA) to different categories of Technical/Field staff employees working on different duties, e.g. those working in the operations and R.E. Divisions, construction organizations are paid. The quantum of allowance is revised from time to time. Our attention has further been drawn to a circular letter dated 5.4.1972, from a perusal whereof it appears that technical field staff would be entitled to the holidays in a calendar year as stipulated therein, namely,

- i) Saturdays on alternate months-not exceeding five.*
- ii) Half the number of Gazetted Holidays notified by the Board for the other staff.*

We must however notice that the Punjab State Electricity Board had issued a circular letter dated 27.10.1986 which is in the following terms:

- 1. In compliance with the instructions issued vide this office order No.432/PSEB dated 24.05.1982, it is informed that all the officers of the Punjab State Electricity Board shall function from 9.00 a.m. to 5.00 p.m. from Monday to Friday with lunch break from 1.30 p.m. to 2.00 p.m. i.e. the same office timings of the Government of Punjab. The offices of the Electricity Board shall remain closed on all the Saturdays and Sundays.*
- 2. The same holidays shall be observed in the offices of the*

Punjab State Electricity Board as are being observed in the office of the Punjab Government.

A bare perusal of the said circular dated 27.10.1986 would clearly show that the same would be applicable only in respect of the officers and employees working in the office of the Electricity Board and not the Field Staff. The circular letter dated 5.4.1972 has not been repealed by circular letter dated 27.10.86.

In view of the fact that the technical staff of the Board are governed by regulations framed under Section 79(c) of the 1948 Act the appellants herein do not have any existing legal right so as to enable them to file an application under Section 33-C(2) of the Industrial Disputes Act, 1947.

We have noticed hereinabove that even in Municipal Employees Union's case (supra), this Court opined that the octroi staff could be entitled to the said benefit of non-working Saturdays and when required to work on such Saturdays, were entitled to extra wages in lieu thereof, if they are not governed by any of the rule. In the case the appellants being governed by statutory rules, they would not be entitled to file applications under Section 33-C(2) of the 1947 Act.

For the aforementioned reasons, we are of the opinion that the impugned judgment and order of the High Court does not suffer from any legal infirmity. These appeals are, therefore, dismissed. No costs."

Since the issue involved in the present petition has already been settled upto Hon'ble the Supreme Court and learned counsel for the petitioners has failed to cite any fresh circumstance on the basis of which a different proposition is formulated, therefore, finding no merit in the instant petition, the same is hereby dismissed.

30.07.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No