

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

CWP No.23987 of 2018 (O&M)

Date of Decision:29.10.2018

Principal Secretary, Department of Irrigation, Govt. of Punjab (Now
changed to Dept. Water Resources, Punjab), Chandigarh
... Petitioner

Versus

Workmen through Union C/O General Secretary/Thein Dam Workers
Union (CITU) and another
... Respondents

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

Present: Ms. Jasleen Kaur Sidhu, AAG, Punjab for the petitioner

RAJIV NARAIN RAINA, J. (Oral)

1. I have heard learned counsel for the petitioner and perused the paper-book.

2. This petition has been filed on 17th September, 2018 by the Department of Irrigation, Punjab challenging the award of the Labour Court dated 8th November, 2017 in Ref.No.78 of 2011. The delay of two years in presenting the petition has not been explained in the petition. This reflects badly on the due diligence and the responsibility of the State that it can come to this Court whenever it wishes.

3. That apart, I have heard Ms.Jasleen Kaur Sidhu, learned State counsel for the petitioner on the merits of the dispute. The dispute referred by the appropriate government for determination by the Labour Court was whether special allowances of Drivers and Operators working at Ranjit Sagar Dam, Shahpurkandi was to be increased from ₹ 150/- to ₹

300/- per month as per demand notice dated 11.3.2001 and if the answer was -Yes, then to what extent and from which date, they were entitled to relief?

4. It is not for the first time that the issue has come before this Court. The learned Labour Court has noticed the judgment passed by learned Single Judge of this Court in CWP No.9092 of 1997, The State of Punjab and another vs. The workman through Presiding CITU Union decided on 27.7.2009 which covers the ground. The writ petition of the State was dismissed by a reasoned order holding that there were other categories of employees, other than Drivers and Operators, working in the Ranjit Sagar Dam such as Steno-typist, Head Mali, Head Chowkidars, Jamadars, Daftri, Record Lifters, P.As., Senior Scale Stenographers, Junior Scale Stenographers, Section Officers (SAS Cadre), Chief Purchase Officer (SE Rank), Purchase Officer (XEN rank), Assistant Purchase Officer (SDO rank), CE SE/XEN/SDE/JE (for design work) who although receive Project Allowance, also receive the Special Pay by virtue of various government orders/circulars. The learned Single Judge noticed that this aspect has been brought out in a communication which the Financial Advisor and Chief Accounts Officer of Ranjit Sagar Dam Project had adverted to in the letter dated 20th October, 1995 to the Principal Secretary, Finance. When all ranks and cadres were in receipt of additional allowances in addition to project allowances, the Court found no merit in the petition filed by the same department which is also the department in the present proceedings, to deny special allowances for workers employed in the Ranjit Sagar Dam Project. This Court observed that it would be one thing to deny the special allowance to persons who work in a project who receive additional allowances but quite another to

deny to a single category of workmen in the project itself while allowing such special allowances to all other categories in the project. By this differentiation discrimination is writ large and denial of benefits is clearly arbitrary and violative of the principle of equality. The Court found the award passed in that case perfectly justified and which accords with justice, conforming as it does, to the fundamental precept of equality and non-discrimination enshrined in Article 14 of the Constitution.

5. In the present case, the Drivers and Operators are represented by the Union in the dispute referred under Section 2 (k) read with Section 10 (1) (d) of the Industrial Disputes Act, 1947 claiming grant of special allowances. The Labour Court has by a well reasoned order dealt with the evidence on record and returned findings of fact on issues no.1 and 2 in favour of the union of workmen and against the respondents, the present petitioner, holding that drivers doing duty on vehicles with respondent-Management are entitled to special allowance/pay of ₹ 300/- per month w.e.f. 1.9.1997 subsequently enhanced from ₹ 300/- to ₹ 600/- per month w.e.f. 1.10.2010. The learned Labour Court has directed that the Respondent-Management will identify such workers and release to them their arrears within a period of three months from the date of the award becoming enforceable. The learned Labour Court has also granted interest on arrears at the rate of 6% per annum from the date of the application till actual payment.

6. I find no substance in the argument of the learned counsel that persons plying vehicles as Operators who were freely used as Drivers for a considerably long period of time would not be entitled to the same benefit on parity with other categories including Drivers, so long as it was not disputed that they in fact worked as Drivers of both kind of vehicles.

Even otherwise, they would be to my mind entitled to the said benefits on the principle of *quantum meruit* with right to be paid a reasonable sum of money for services rendered or for work done when the amount due is not stipulated in a legally enforceable contract. The workmen in the present case have put in their labour as Drivers being Operators, are entitled to wages in the shape of Special Pay over and above the Project allowance while working in the Ranjit Sagar Dam Project. There is no scope for interference in the impugned award and the writ petition is liable to be dismissed both on merits and for reasons of belated approach by the Department which is after two years of the passing of the impugned award. The award is enforceable and if the execution proceedings are pending, the learned execution Court/Labour Court is directed to expedite the proceedings.

7. In view of the above, I find no merit in this petition worth entertaining which is accordingly dismissed *in limine*.

29.10.2018
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No