

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

CWP No. 23683 of 2011

Date of Decision: 14.01.2019

Tirath Ram

...Petitioner

Vs.

The Presiding Officer, Industrial Tribunal, Gurdaspur and another

...Respondents

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

Present: Mr. Arun Gosain, Advocate
for the petitioner.

Ms. Sakhi Bakshi, AAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. The challenge in this petition is to the order dated 20.07.2011 (P-6) passed by the Industrial Tribunal, Gurdaspur in an application filed by the petitioner under Section 33-C(2) of the Industrial Disputes Act, 1947 (in short the Act') whereby the petitioner has been denied the wages at the D.C. approved rates.

2. The petitioner was employed as Cook in the office of District Welfare Officer, Gurdaspur w.e.f. July, 1988 and worked till 30.03.1990. The services of the petitioner were terminated on 01.04.1990. He raised the demand notice on 16.08.1991 against his termination. The learned Labour Court by its award dated 01.02.1995 (P-1) ordered reinstatement with full back wages from the date of demand notice. The petitioner was reinstated on 25.05.1996. Thereafter, the petitioner filed an application dated 23.10.1996 before the Authority under the Payment of Wages Act, 1936 claiming wages

for the period from 25.05.1996 to 23.10.1996 at D.C rates. The Labour-cum-Conciliation Officer, Gurdaspur vide order dated 31.03.1997 allowed his application awarding wages for the aforesaid period at the rate of Rs.800/- per month instead of D.C. approved rates. The petitioner went in appeal under Section 17 of the Payment of Wages Act before the learned Additional District Judge, Gurdaspur but failed.

3. The services of the petitioner were again terminated on 30.04.1997. The learned Labour Court on a reference of the dispute passed award dated 06.03.2002 directing reinstatement of the petitioner with all allied benefits from the date of termination i.e. 30.04.1997. The District Welfare Officer, Gurdaspur challenged the award dated 06.03.2002 by filing CWP No.13589 of 2002 but this Court on 27.05.2004 dismissed the petition with modification for payment of 50% back wages instead of full back wages.

4. The learned Labour Court in a separate Claim Application under Section 33-C(2) of the Act filed by the petitioner claiming wages for the period from 01.11.1996 to 30.04.1997 directed the respondent vide order dated 30.06.1998 to pay the wages at D.C. approved rates prevailing at that time.

5. The petitioner again filed Claim Application dated 08.12.2004 to claim arrears of back wages for the period from May, 1997 to December, 2004 at D.C rates but the Industrial Tribunal, Gurdaspur vide impugned order dated 20.07.2011 instead of granting wages at the D.C. rates recommended challan of the employer under Section 29 of the Payment and Wages Act only at the rate of Rs.800/- per month. Learned counsel for the

petitioner submits that the impugned order is illegal and against the provisions of the Payment and Wages Act.

6. I have heard the submissions made by the learned counsel for the parties and with their assistance have gone through the record.

7. Learned State counsel argues that the petitioner was engaged as a Cook under the Centrally Sponsored Scheme called “Pre-Matric Scholarship-Unclean Occupation Scheme” at a consolidated salary of Rs.800/- per month so he is not entitled to the wages at D.C. rates because he was never appointed on D.C. rates.

8. The argument of the learned State counsel cannot be accepted. The learned Industrial Tribunal while dealing with the issue of determination of wages allowed the same though by an ex parte order dated 03.06.1998 at the rates approved by the D.C. Thus, the order dated 20.07.2011 declining the wages at DC rates is not sustainable. Even otherwise, the petitioner was again reinstated by the Labour Court when his services were terminated on 30.04.1997 and the petition filed by the respondent was dismissed by this Court.

9. Resultantly, this writ petition is allowed. A direction is issued to respondent No.2 to pay wages due to the petitioner at D.C. rates as revised from time to time within a period of three months from the date of receipt of a certified copy of this order failing which the amount shall carry interest at the rate of 10% per annum till payment.

(RAJIV NARAIN RAINA)
JUDGE

14.01.2019

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*