

CWP-17509-2013

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

CWP-17509-2013

Date of Decision: 27th February, 2020

Punjab Civil Secretariat Employees Union

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. D.V. Sharma, Senior Advocate with
Mr. Gaurav Sharma, Advocate, for the petitioner – Union.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

AUGUSTINE GEORGE MASI, J. (ORAL)

The case came up for hearing on 12.02.2020 when following order was passed:-

“Learned senior counsel for the petitioner – Union has asserted that the assertion of the counsel for the State about the members of the petitioner – Union having approached Delhi High Court by way of WP (C) No.6593 of 2001 for identical relief, has clearly been mentioned in para 14 of the writ petition and the order passed therein on 15.01.2001 stands reproduced therein. He, thus, contends that the writ petition was on a different premise and for different relief as is apparent from the order, which has been passed by the Delhi High Court.

Learned senior counsel for the petitioner –

Union has submitted that the members of the petitioner – Union are claiming the same benefits as the Secretariat staff are entitled to and the members of the petitioner – Union are borne of the cadre of the Punjab Civil Secretariat at Chandigarh. In support of this, he places reliance upon the appointment letter dated 01.08.2013 (Annexure P-2) relatable to Smt. Kulwant Kaur, who was appointed as Telephone Operator and the powers, which were conferred upon the Resident Financial Commissioner, Punjab, vide communication dated 24.07.1985 (Annexure P-3), 17.04.1990 (Annexure P-4) and order dated 08.05.1992 (Annexure P-5) passed by the Chief Secretary, Government of Punjab, which clearly indicated that the members of the petitioner – Union were borne on the cadre of Punjab Civil Secretariat, Chandigarh. He, thus, contends that the members of the petitioner – Union are entitled to the same benefits as the staff of the Punjab Civil Secretariat including the five days in a week principle, whereas the members of the petitioner – Union are being forced to work on extra days i.e. at least six days in week.

Counsel for the State, on the other hand, referred to para 5 of the reply on merits to contend that there are two different types of the employees in the Punjab Civil Secretariat. One relate to the employees who belong to the common cadre of the Punjab Civil Secretariat and other are the employees who are borne of the strength of the Punjab Bhawan, New Delhi only. She, however, could not place on record any decision by the Government or any instructions/rules, which would indicate so. That apart, she has referred to para 7 of the preliminary submissions to contend that the members of

the petitioner – Union are being granted weekly holidays and one extra holiday in lieu of second Saturday to the employees who worked on second Saturdays. They are also compensated with holidays in lieu of they having worked on gazetted holiday. Further pleadings which have been made is that the hospitality, maintenance and security services cannot be run on five days in a week pattern as pleaded by the petitioner – Union. She, however, could not respond to the question put by this Court as to whether the staff in the Punjab Civil Secretariat worked on the pattern of six days in a week or is working on five days in a week pattern. She prays for an adjournment to seek instructions in this regard on both the questions.

Adjourned to **19.02.2020** for further consideration.”

In response thereto, an additional affidavit of the Deputy Resident Commissioner, Government of Punjab, Punjab Bhawan, New Delhi, has been filed in Court. According to the said affidavit, the General Administration, Punjab Secretariat, Chandigarh, has now framed separate recruitment rules for all posts exclusively for employees of Punjab Bhawan, New Delhi and the same have been notified on 15.09.2016. This takes care of the subsequent aspect with regard to the claim of the members of the petitioner – Union, which they are not, in the light of the said notification, projecting as has been stated by the learned senior counsel for the petitioner – Union. It is asserted that the claim is restricted prior to the said date of notification of service.

The affidavit which has been filed in Court today does not

answer the question, which has been put up by this Court, as the same appears to be as it exists today, whereas the claim is made prior thereto.

In view of the above, members of the petitioner – Union are held entitled to the same benefits, as the Secretariat staff were entitled to borne on the cadre of Punjab Civil Secretariat at Chandigarh till 15.09.2016. The consequential benefits be released to the members of the petitioner – Union within a period of four months from today, which shall be restricted to 38 months prior to the date of filing of the present writ petition.

27th February, 2020
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No