

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

CWP NO. 24481 OF 2021

DATE OF DECISION : 02.12.2021

Pardeep

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ravi Sharma, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Grievance of the petitioner herein, working as a Driver in the Haryana Roadways, is against administrative order dated 20.11.2018 (Annexure P-3) and he is seeking quashing thereof on the ground that same is in violation of Section 13 of the Motor Transporters Workers Act, 1961 (hereinafter referred to as "the Act"), inasmuch as it authorizes an employer to make a driver do a duty on a continuous stretch of 12 hours in a day as against maximum 10 hours, prescribed in the Act, *ibid*.

2. Grievance is also made out that the drivers in the Haryana Roadways are being made to drive without being provided with any rest after every 05 hours of driving, as per Section 15 of the Act.

3. For ready reference, Sections 13 and 15 of the Act are reproduced herein below :

“HOURS AND LIMITATION OF EMPLOYMENT

Section 13 Hours of work for adult motor transport workers

– No adult motor transport worker shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week:

Provided that where any such transport worker is engaged in the running of any motor transport service on such long distance routes, or on such festive and other occasions as may be notified in the prescribed manner by the prescribed authority, the employer may, with the approval of such authority, require or allow such motor transport worker to work for more than eight hours in any day or forty-eight hours in any week but in no case for more than ten hours in a day and fifty-four hours in a week, as the case may be;

Provided further that in the case of a breakdown or dislocation of a motor transport service or interruption of traffic or act of God, the employer may, subject to such conditions and limitations as may be prescribed, require or allow any such motor transport worker to work for more than eight hours in any day or more than forty-eight hours in any week.

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Section 15 Daily Intervals for rest- *(1) The hours of work in relation to adult motor transport workers on each day shall be so fixed that no period of work shall exceed five hours and that no such motor transport worker shall work for more than five hours before he has had an interval for rest for at least half an hour;*

Provided that the provision of this sub-section in so far as they relate to interval for rest shall not apply to a motor

transport worker who is not required to work for more than six hours on that day.

(2) The hours of work on each day shall be so fixed that a motor transport worker, is except in any case referred to in the second proviso to Section 13, allowed a period of rest of at least nine consecutive hours between the termination of duty on any one day and the commencement of duty on the next following day.”

4. On advance service of copy of the petition, learned State counsel appears and opposes the issuance of notice of motion.

5. I have heard the rival contentions of learned counsel for the parties and also perused the impugned order dated 20.11.2018.

6. It seems that the intent of order dated 20.11.2018 (Annexure P-3) herein is not to deny the drivers of the aforesaid statutory rights which are in larger general public interest so as to avoid accidents being caused due to physical and/or mental fatigue caused by long stretches of driving. At the same time, the intent of impugned order seems to be to curb the unnecessary race amongst the drivers to indulge in working overtime so as to earn extra money but at the same time defeat the very purpose of avoiding the accidents caused due to fatigue. Needless to say that working overtime would naturally result in working beyond the hours as envisaged under the statute (supra).

7. As regards certain stretches which may require a driver to drive for 12 hours as has been alleged in the impugned order is concerned, the same seems to have been taken care of in the penultimate part of the impugned order, relevant whereof is extracted herein below :

“ For example if the drivers and conductors of a bus do their duty for 12 hours for up and down Panchkula/ Chandigarh to Delhi, in that condition that drivers and

conductors can be given two days work rest with one weekly holiday and for the rest of three days other drivers and conductors can be deployed on this rotation or the drivers and conductors can be deployed alternatively with gap of one day so that duty hours may not exceed beyond 48 hours in a week. It is also made clear that sufficient drivers and conductors are available with most of the General Manager to run the run-able buses still they are requested to send demand for additional drivers and conductors have been made to comply the directions to zeroise the overtime expenses vide letter No. 2052/T.I-4 dated 20.11.2018.”

8. A perusal of the above would reveal that ordinarily the work to be taken from driver is not to exceed 48 hours per week and on a certain day when a driver is deputed at a stretch, from destination A to destination B which may take more than 10 hours of driving, then the aforesaid explanation, as given in the penultimate part of the order would come into play, in order to take care of his fatigue.

9. That apart, Section 13 of the Act (supra) also makes it very clear that no driver is to drive at a stretch of more than 08 hours and cannot be made to drive more than 48 hours in a week. It is expected of the competent authority that the impugned order shall be implemented in letter and spirit, without violating the aforesaid mandatory provisions and in the ordinary course the drivers employed by the transport department would be made to drive on day-to-day basis not beyond 10 hours and in that manner, 48 hours be staggered over a week.

10. Needless to say, when on long stretches the aforesaid explanation would entitle a driver to take extra rest as stated in the impugned order itself, apart from being given half an hour break after every 05 hours of driving.

11. The writ petition stands disposed of with the aforesaid observations accordingly.

DECEMBER 02, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No