

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

LPA No. 256 of 2013

Date of decision: 01.09.2022

Workmen through Their Dam Worker's Union

.....Appellant

Versus

Presiding Officer, Industrial Tribunal, Punjab and another

.....Respondents

**CORAM:HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Nath Singh, Authorized Representative
for appellant-Workmen.

Ms. Anu Pal, Sr. DAG, Punjab.

Ritu Bahri, J.

This is an intra court appeal, under Clause X of the Letters Patent, against the judgment dated 06.05.2009 passed by the learned Single Judge, vide which the writ petition i.e. CWP-226-1993, preferred by the Chief Engineer, Ranjit Sagar Dam Project-petitioner (respondent No.2 herein) against the award dated 27.04.1992 (Annexure P-1) passed by the Tribunal, Punjab, Chandigarh, has been allowed.

Facts arising out of Award No.16 of 1991 (Annexure P-1) are that the Workmen were claiming that they were performing similar duties, which were being performed by work charge and regular employees of the respondent, but the wages and other facilities being provided to them were much less. A direction was being sought to pay wages and facilities equal to the work charge and regular employees on the principle of 'equal pay for equal work'.

Upon notice, respondent-Chief Engineer (respondent No.2 herein)

filed written statement before the Reference Court stating that nature of duties of daily wage employees were not similar to that of work charge or regular workmen, as such the daily wage workers were not entitled to wages and facilities equal to the work charge and regular employees.

From the pleadings of the parties, following issues were framed:-

- (1) Whether the reference is maintainable on the grounds alleged in the preliminary objections of the written statement?
- (2) Whether the daily wage workers are entitled to get wages and facilities equal to work charge and regular employees? If so, from which date and with what other details?

The reference was answered in favour of the workmen by observing that the posts held by the workmen employed on daily wages are the same being held by the work charge or regular employees. The only difference is that the wages and other benefits allowed to the work charge and regular employees have not been made available to the workman performing same duties on similar posts having been employed on daily wages. Ultimately, the respondent was directed to pay same wages and afford same facilities to the daily wage employees as are/were being paid and afforded to the work charge and regular employees.

Feeling aggrieved by the Award dated 27.04.1992 (Annexure P-1), the Chief Engineer, Ranjit Sagar Dam Project-respondent No.2 filed writ petition i.e. CWP-226 of 1993, which was allowed vide judgment dated 06.05.2009 passed by learned Single Judge of this Court. While allowing the petition, reference was made to the judgment passed by Hon'ble the Supreme Court in **State of Haryana vs. Charanjit Singh**, 2006 (1) RSJ 539.

In this judgment, Hon'ble the Supreme Court has observed that in service

matters, merit or experience can be a proper basis for classification for the purpose of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment, may itself in certain cases make a difference. The application of the principle of 'equal pay for equal work' requires consideration of various dimensions of a given job and normally, the applicability of this principle is to be evaluated and determined by an expert body. These are not matters, where a writ Court can lightly interfere. Learned Single Judge further observed that the mode of appointment, the procedure of appointment, the rules governing the service, service conditions of employees, responsibility of the post, control of the management, wages and other benefits were all different and there was no similarity between the daily wagers on one hand and work charged and regular employees on the other. With these observations, the impugned award dated 27.04.1992 was set aside and the writ petition was allowed. Hence, the present appeal.

Initially, vide judgment dated 03.09.2013, the present appeal was dismissed on the ground of inordinate delay of 492 days in filing and 619 days in re-filing. However, Hon'ble the Supreme Court, vide order dated 08.12.2014 passed in SLP (C) No.2199 of 2014 (Civil Appeal No. 10896 of 2014), set aside the said judgment by restoring the matter and directed to decide the same on merits.

Learned counsel for the appellant has argued that prior to passing of the award dated 27.04.1992 (Annexure P-1), an award dated 05.12.1989 was published in Punjab Government Gazette Notification dated

18.05.1990, whereby all the daily wage work charge workers were held entitled to project allowance as well as medical allowance at par with the regular employees.

In the present case, as per the affidavit filed by Sh. P.S. Bhinder, Executive Engineer, Personnel Division, Ranjit Sagar Dam Project, Shahpurkandi Township, Pathankot, services of all the workmen, who were working on daily wages on muster rolls at Ranjit Sagar Dam Project, Shahpurkandi Township were made workcharged w.e.f. 01.10.1995 vide agreement dated 13.10.1995 between President, Thein Dam Worker's Union (Regd.), Pathankot and Management of Ranjit Sagar Dam under Section 12 (3) of the Industrial Disputes Act, 1947 (Annexure R-1). Subsequently, the services of all the work-charged employees working at Ranjit Sagar Dam Project were regularized w.e.f. 13.03.1996 by the Punjab Government vide memo dated 13.03.1996 (Annexure R-2).

The relevant portion of the agreement dated 13.10.1995 (Annexure R-1) is reproduced as under:-

“This agreement is in between of both the parties that the daily wages workmen will be paid wages as work-charged workmen from the month of October, 1995.

That the decision of the Writ Petition No.226 of 1993, pending in the Hon'ble High Court of Punjab and Haryana, will be binding on both the parties.

Both the parties will work with cooperation.”

Now, the short question for consideration in this appeal is, whether after giving them payment as work-charged from the month of October, 1995, the appellants are entitled to the benefit of award dated

27.04.1992 (Annexure P-1), where they were awarded the same wages, which were being paid to the work-charged regular employees.

In the present case, one the State Government itself has taken a conscious decision to treat them as daily wagers, as per agreement dated 13.10.1995 (Annexure R-1), w.e.f. October, 1995, for all intents and purposes, the respondents have accepted that the work of daily wagers was equal to the work of work-charged regular employees.

In view of the above said agreement/order, the Tribunal had rightly answered the reference in favour of workmen vide award dated 27.04.1992 (Annexure P-1). At the time of dismissal of the writ petition (CWP-226 of 1993) by the learned Single Judge vide order dated 06.05.2009, affidavit dated 27.08.2015 submitted by Sh. Parwinder Singh Bhinder, Executive Engineer, Personnel Division, Ranjit Sagar Dam Project, was not part of the pleadings. Along with this affidavit, copy of agreement dated 13.10.1995 and order dated 13.03.1996 regularizing the services of all the work-charged employees, were placed on record as Annexures R-1 and R-2. Once, the respondent/State had accepted the work of daily wagers equivalent to that of the work-charged and regular employees w.e.f. 13.03.1996, the same parameter has to be applied with respect to the case of present appellant (workmen) consequent upon passing of the award dated 27.04.1992 (Annexure P-1), whereby reference had been answered in their favour.

This Court, at this stage, is not to examine, whether the work of daily wagers is equivalent to that of work-charged employees, as this fact has already been accepted by the respondent and the State Government.

In view of the above discussion, the impugned judgment dated

06.05.2009 passed by the learned Single Judge, is set aside and the award dated 27.04.1992 (Annexure P-1) passed by the Industrial Tribunal, Punjab is upheld. Respondent No.2-Chief Engineer, Ranjit Sagar Dam Project, Shahpurkandi Township, is directed to comply with the award dated 27.04.1992.

Allowed accordingly.

(RITU BAHRI)
JUDGE

01.09.2022
ajp

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No