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

CWP-2572-2023

Date of decision : 16.02.2023

State of Haryana and others

...Petitioners

Vs.

Sombir and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sukhdeep Parmar, DAG, Haryana.

MANOJ BAJAJ, J.

State of Haryana being aggrieved against the award dated 14.02.2022 (Annexure P-1) passed by Industrial Tribunal-cum-Labour Court, U.T.Chandigarh, whereby the claim of respondent No.1 (workman) under Section 33-C(1) (2) Industrial Disputes Act, 1947 seeking arrears of overtime w.e.f.01.01.2016 to 30.10.2016 on the basis of recommendation of the 7th Pay Commission was accepted, has filed this petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari for setting aside the said award.

Learned counsel for the petitioners has argued that respondent No.1-workman had joined as driver in the year 2012 and with the intervention of the Court, he was granted regular pay scale, who subsequently brought a petition under Section 33-C (1) (2) Industrial Disputes Act, 1947 to claim the difference of overtime allowance w.e.f.01.01.2016 to 30.10.2016 on the basis of revised pay scales, in terms of recommendation of the 7th Pay Commission and the same has been accepted by the Labour Court through the impugned

award dated 14.02.2022. Mr. Parmar, learned counsel states that the claim of the respondent No.1 was contested by the petitioners on the ground that overtime is not part of the pay and being an additional allowance, cannot be granted retrospectively. He submits that the Labour Court vide impugned award dated 14.02.2022 has negated the stand of the petitioners and allowed him difference of overtime allowance w.e.f.01.01.2016 to 30.10.2016 on account of revision of pay. According to the learned counsel, the petitioner is getting revised overtime allowance as well w.e.f. w.e.f. 01.11.2016, but the Labour Court has wrongly exercised the jurisdiction by granting him the benefit with retrospective effect w.e.f 01.01.2016 to 30.10.2016, therefore, interference is warranted by this Court.

After hearing learned counsel and considering his submissions, this Court finds that the claim of the workman/respondent No.1 relates only to the arrears of overtime pertaining to the period w.e.f.01.01.2016 to 31.10.2016 and similar benefit has already been extended to the other similarly situated employees. A perusal of the impugned award shows that the Labour Court has noticed the admission of MW-1, who during cross-examination admitted that this benefit was given to another employee, namely, Parkash Chand, whereas it has been denied to the workman/respondent No.1. Apart from it, the decision of this Court delivered in “*The General Manager, Haryana Roadways, Chandigarh Vs. Azad Singh and others*” 2009 (5) SLR 570 was also relied upon, wherein this Court held that as a consequence of revision in pay-scale, the overtime allowance has to be revised accordingly. Since this issue has already been addressed by this Court and the sole argument raised in this case is covered by the above noticed decision, therefore, this Court has no hesitation

in holding that the impugned award passed by Labour Court, Chandigarh does not warrant any interference as it is based upon correct appreciation of evidence and law on subject.

Resultantly, no case is made out for exercise of extra ordinary writ jurisdiction.

Dismissed.

(MANOJ BAJAJ)
JUDGE

16.02.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No