

2023:PHHC:116905

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

RSA-1427-1992 (O&M)
Date of decision: 05.09.2023

Municipal Committee and another

..Appellants

Versus

Shri Lila Ram

.Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. R.S.Khosla, Sr. Advocate with
Ms. Bharti Pujara, Advocate for the appellants

ANIL KSHETARPAL, J (Oral)

1. This is the defendants' Regular Second Appeal against the concurrent findings of fact arrived at by the courts below, while decreeing the suit, filed by the plaintiff (respondent herein).
2. The respondent was appointed as Octroi Clerk on 22.01.1977. He filed a suit for grant of decree of declaration that he is entitled to holidays on Saturdays and Sundays. Both the courts decreed the suit.
3. On 20.08.1983, the appeal was admitted for regular hearing, after taking note of the fact that the point in issue has been referred to a Full Bench of three Judges.
4. As per the office note, the Full Bench of three Judges vide judgment passed in '**Hari Chand and others vs. State of Punjab and others**' in CWP-5476-1992 decided on 29.05.1998, has decided the aforesaid issue in the following manner:-

“Learned Advocate General appearing on behalf of respondents 1 and 2 placed before us a list of Municipal Councils in the State showing the number of compensatory leaves which are being granted by them to their octroi staff. A perusal of this list would show that there is no uniform policy in this regard. In the additional affidavit filed on behalf of respondents 1 and 2, it is stated that with a view to bring uniformity instructions have now been issued by the Director, Local Government, Punjab, to all the Municipal Councils/ Nagar Panchayats in the State directing them to uniformly allow then compensatory leaves to the octroi staff in lieu of national and festival holidays in addition to the normal causal leaves. Now that all the Municipal Councils in the State would be granting compensatory leaves on uniform basis to their octroi employees to compensate them for the national and gazetted holidays on which they may have to work due to the exigencies of service, the hardship, if any, that was being experienced by the octroi employees now stands removed and no further directions from the court are called for in this regard. However, as was suggested by the learned Advocate General, the Municipal Councils throughout the State of Punjab are directed to continuously rotate their employees from the office to the barriers and vice-versa as is the requirement of the rules contained in the Punjab Municipal Account Code so that there is no scope for any employee to make a grievance in this regard. Subject to this direction, we find no merit in the writ petitions and the same stand dismissed leaving the parties to bear their own costs.

Civil Writ Petitions 19149 of 1991, 6615 of 1993 and 1605 of 1994 had been ordered to be heard by the Full Bench alongwith CWP 5476 of 1992 and other similar petitions. In the course of arguments it, however, transpired that these three petitions are different on their facts and require to be heard separately from this bunch of petitions which the Full Bench is disposing of. These three petitions are, therefore, separated and directed to be listed for hearing before a learned Single Judge.”

Learned counsel representing the appellant submits that the respondent, on attaining the age of superannuation, would have retired and in any case, the matter is required to be disposed of in the same terms as in CWP-5476-1992 titled as ‘**Hari Chand and others vs. State of Punjab and others**’ decided on 29.05.1998

Ordered accordingly.

All the pending miscellaneous applications, if any, are also disposed of.

05.09.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE