



CWP-8538-2013

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

CWP-8538-2013

Date of Decision: 29.10.2024

PUNJAB STATE ELECTRICITY BOARD

..... Petitioner

*Versus***PRESIDING OFFICER INDUSTRIAL TRIBUNAL BATHINDA
AND ANR**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. H.S. Ghuman, Advocate
for the petitioner.

Mr. R.K. Singla, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 15.01.2013 (Annexure P-6) whereby Labour Court has ordered the petitioner to remove pay anomaly and re-fix salary of the respondent as per Rules.

2. The respondent No.2-workman joined petitioner on 03.01.1976 as unskilled worker. He was appointed on the pay scale of Rs.70/95. He was promoted to the post of skilled worker on 05.08.1978 with pay scale of Rs.85/124. Two employees namely Subash Chand and Harbans Lal joined petitioner on 25.08.1978 and 01.09.1978. They were granted pay scale of Rs.70/95 and Rs.85/124 respectively. As per applicable Rules of the petitioner, Subash Chand and Harbans Lal got proficiency step up on completion of 9 years' service whereas petitioner



was not extended said benefit because he had already received one promotion. On account of applicable Rules and Regulations governing pay revision, pay of all the employees was revised w.e.f. 01.01.1986. At that point of time, there was not much difference between pay scale of respondent and other employees, however, gap in the pay scale arose on account of grant of proficiency step up and annual increments to Subash Chand and Harbans Lal.

3. The respondent preferred an application under Section 33-C (2) of Industrial Disputes Act, 1947 (for short 'ID Act') before the Labour Court seeking removal of pay anomalies. He submitted that he was holding position of skilled worker on 05.08.1978 and Subash Chand as well Harbans Lal were appointed as skilled workers thereafter, thus, their salary could not be more than his salary. The Labour Court considering status of workman and other workers allowed application and directed the petitioner to remove pay anomaly and re-fix pay of the workman. The relevant extracts of findings recorded by Labour Court are reproduced as below:

"I have considered the arguments advanced before me and I have also gone through the pleadings of the parties and the evidence led in this case. The facts of the case are not much disputed. It has come on record that Gauri Shankar was appointed as unskilled worker on 03.01.1976 in the pay scale of Rs. 70/95. He joined as skilled worker on 05.08.1978 in the pay scale of Rs. 85/124 and thereafter, he joined as Junior Plant Attendant on 18.05.1992 in the pay scale of Rs. 1050/2100. The salary of applicant was fixed in the scale of Rs. 975/-. It is further admitted that Harbans Lal joined as skilled worker on 01.09.1978, whereas



Subhash Chand joined as skilled worker on 06.03.1979 i.e. much later than the applicant Gauri Shankar. The abovesaid applicants opted for new scale in the year 1988, which were applicable w.e.f. 01.01.1986. Once the applicant and the other workers opted for new scale, it was applicable w.e.f. 01.01.1986. Therefore, salary of present applicant could not be fixed at lower rate as compared to the salary of Harbans Lal and Subhash Chand. Charanjit Singh Sandhu RW-1 admitted in his cross-examination that salary of Harbans Lal and Subhash Chand on 01.01.1986 was fixed as Rs. 1075/-, whereas salary of Gauri Shankar was fixed as Rs. 975/-. This witness further admitted that as per the service rules of P.S.E.B, juniors officials cannot get salary more than his seniors. Therefore, admittedly, there is anomaly in the pay fixation of Gauri Shankar applicant as compared to Harbans Lal and Subhash Chand, who joined as skilled workers subsequent to him. Therefore, claim of applicant is justified and his salary is required to be re-fixed as per the rules. This issue is, accordingly, decided in favour of the applicant and against the respondents.”

4. Mr. H.S. Ghuman, Advocate for the petitioner submits that it is a case of pay anomaly, if any, and Labour Court could not adjudicate the said question while exercising power under Section 33-C (2) of ID Act. As per petitioner, there was no pay anomaly because respondent No.2 had joined as unskilled worker whereas he is claiming pay parity with those workers who had joined as skilled workers.

5. Mr. R.K. Singla, Advocate for respondent No.2 supporting the findings of Labour Court submits that concededly there was pay anomaly. The other workers joined post of skilled worker after workman



was promoted to the said post. The similarly situated workers could not be paid salary higher than salary of respondent No.2.

6. I have heard the arguments and perused the record.
7. From the perusal of record, it is evident that respondent No.2 joined as unskilled worker on 03.01.1976 and was promoted to the post of skilled worker on 05.08.1978. The other workers joined after 05.08.1978, however, they had joined as skilled workers. They were given benefit of proficiency step up which resulted in pay disparity. The question whether there was actually pay anomaly and was required to be removed could not be adjudicated while exercising power under Section 33-C (2) of ID Act. The Labour Court under Section 33-C (2) of ID Act acts as an Executing Court and said provision is sort of execution. In exercise of power conferred by Section 33-C (2) of ID Act, the disputed questions cannot be adjudicated. The question posed before the Labour Court was a purely disputed question.
8. In the wake of above discussion and findings, this Court is of the considered opinion that impugned order needs to be set aside and accordingly set aside. The respondent is at liberty to avail remedies as permissible by law with respect to alleged anomaly.

9. Allowed.

(JAGMOHAN BANSAL)
JUDGE

29.10.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>