



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-987 of 2022 (O&M)
Reserved on:29.07.2024
Date of Order:05.08.2024

Ram Gopal and others

.Appellants

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dinesh Kumar Dakoria, Advocate
for the applicants/appellants

Mr. Naveen S. Bhardwaj, Addl. Advocate General, Haryana

Mr. Shehbaz Thind, Advocate
for respondent no.4.

ANIL KSHETARPAL, JUDGE

1. In this Letters Patent Appeal filed under Clause X of the Letters Patent Act, 1917, the appellants assail the correctness of an order dated 29.08.2022, wherein the petitioners were relegated to avail any other alternative remedy in accordance with law.

2. The Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

3. The appellants invoked the extra-ordinary writ jurisdiction of this Court under Articles 226/227 of the Constitution of India with the following substantive prayers:-

“(i) To direct the respondents no.1, 2 and 3 to
implement/enforce the mandatory Rule 17A of The

Industrial Employment (Standing Orders), Punjab Rules, 1949 incorporated by the Haryana Government Labour Department vide Notification No.11/4/2012-4 Lab, dated 06th August 2013 and to implement the order dated 29.11.2021 (Annexure P-10) passed by the respondent no.2 by ensuring the respective jobs/employments of the petitioners in the respondent no.4 with their all legitimate outstanding dues/salary/wages/perks/bonus/compensation and other statutory benefits etc.

- (ii) *To direct the officials of respondent no.1, 2 and 3 to take appropriate immediate legal action against the respondent no.4 & 5 for not complying/implementing the Rule 17A of The Industrial Employment (Standing Orders), Punjab Rules, 1949 incorporated by the Haryana Government Labour Department vide Notification No.11/4/2012-4 Lab, dated 06th August 2013 and subsequent order dated 29.11.2021, passed by the respondent no.2 and violating the provisions of Industrial Dispute Act, 1974 and the relevant provisions of The Industrial Employment (Standing Orders) Act, 1946 and Rules thereof and violation of Article 14, 19, 21 of The Constitution of India.*
- (iii) *To direct for quashing the notice dated 25.03.2021 (Annexure P-3), settlement agreement dated 27.03.2021 (Annexure P-4) and letter dated 30.03.2021 (Annexure P-5) and declare the same as illegal and unlawful ab-initio issued in violation of the Rule 17A of The Industrial Employment (Standing Orders), Punjab Rules, 1949 incorporated by the Haryana Government Labour Department vide Notification No.11/4/2012-4 Lab, dated 06th August, 2013 and provisions of The Industrial Employment (Standing Orders) Act, 1946 and Rules thereof.*

INTERIM PRAYER

- (iv) *To direct the respondent nos.1, 2 & 3 to ensure the respective job/employment of the petitioners with the respondent no.4 during the pendency of the instant writ petition with the regular payments of the salaries/wages of the petitioners, as the petitioners and their respective families and dependents including old age parents are at the stage of starvation and facing the serious issue to meet the medical treatment expenses and payment of school fee etc. in case immediate relief is not granted, in that eventuality the petitioners would cause an irreparable loss which cannot be compensated in terms of money.*
- (v) *To issue any other order or direction in favour of the petitioner, which this Hon'ble Court may deem fit and proper in the light of the facts & Circumstances of the present case.*
- (vi) *To exempt the petitioners from filing true typed copies of Annexure P-1 and Annexure P-11.”*

4. In substance, the appellants were alleged to have retired on completion of 25 years of service. It is the case of the appellants that as per Rule 17A of The Industrial Employment (Standing Orders), Punjab Rules, 1949 (hereinafter referred to as 'the 1949 Rules'), the age of retirement is 58 years. It may be noted here that the appellants retired in March, 2021. There was a settlement agreement between the Management and the Trade Union with a provision for retirement on completion of 25 years of service. The appellants are out of service from 30.03.2021.

5. It may be noted here that 46 workers filed a complaint which was heard by the Joint Labour Commissioner. On 19.08.2021, it was declared that in absence of any resolution or authority from the workers, this

settlement is not binding on those complainants. Thereafter, the Labour Commissioner, Haryana-cum-Certifying Officer vide order dated 29.11.2021, also held that the retirement age of the workmen shall be 58 years or he shall be considered retired if he has been declared medically unfit for the job on which he is employed. On the basis of these assertions, the writ petition was filed which, as already noticed, was disposed of by relegating the appellants to the alternative remedy.

6. During the course of hearing, the learned counsel representing the appellants was requested to explain the reasons for not availing the alternative remedy. He submitted that availing such remedy will have consumed a lot of time.

7. This Bench has considered the submission of the learned counsel representing the parties.

8. The industrial dispute has been defined in Section 2(k) of The Industrial Disputes Act, 1947 (hereinafter referred to as 'the 1947 Act'), which reads as under:-

***(k) "industrial dispute"** means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person."*

9. It is evident that the definition of industrial dispute is wide and extensive. It covers any dispute or difference that arises between its employers and employees or between employers and workmen and any dispute that relates to employment or non employment or terms of employment or with conditions of labour of any person. Thus, the appellants

have efficacious remedy of requesting the appropriate authority for referring the matter to the Board, Court or Tribunal in terms of Section 10 of the '1947 Act'. Moreover, Section 10 of the '1947 Act' enables the appropriate Government to refer the dispute or any matter appearing to be connected with, or relevant to, the dispute specified in Second or Third Schedule to the Labour Court or Tribunal for adjudication. The Second Schedule and the Third Schedule attached to the '1947 Act' encompass a wide range of disputes which includes discharge. At the most, the case of the appellants is that they have been wrongly discharged from service. Hence, they have alternative efficacious remedy.

10. Consequently, there is no ground to interfere with the discretion exercised by the learned Single Judge.

11. Dismissed.

11. However, the appellants, if so advised, may avail the alternative remedy.

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

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

05th August, 2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No