2025:PHHC:017921

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

230 (11 cases)+
234 (22 cases)+
240 & 249

CWP-928-2017 (O&M)
Date of Decision :06.02.2025

Director Horticulture, Punjab, and another **...Petitioners**

Versus

Presiding Officer, Industrial Tribunal, Patiala and another **...Respondents**

CWP-646-2016

Director Horticulture, Punjab, Mohali and others **...Petitioners**

Versus

Harmesh Chand and others **...Respondents**

CWP-7670-2016

Secretary/Financial Commissioner Development Agriculture, Punjab, Chandigarh and others **...Petitioners**

Versus

Makhan Singh and others **...Respondents**

CWP-7671-2016

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Secretary/Financial Commissioner Development Agriculture, Punjab, Chandigarh and others ...Petitioners

Versus

Lachhmi Devi and others ...Respondents

CWP-7684-2016

Secretary/Financial Commissioner Development Agriculture, Punjab, Chandigarh and others ...Petitioners

Versus

Sohan Lal and others ...Respondents

CWP-7692-2016

Secretary/Financial Commissioner Development Agriculture, Punjab, Chandigarh and others ...Petitioners

Versus

Teja Singh and others ...Respondents

CWP-7693-2016

Secretary/Financial Commissioner Development Agriculture, Punjab, Chandigarh and others ...Petitioners

Versus

Bhajan Ram and others ...Respondents

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CWP-7694-2016

Secretary/Financial Commissioner Development Agriculture, Punjab, Chandigarh and others ...Petitioners

Versus

H.P. Singh and others ...Respondents

CWP-932-2017 (O&M)

Director Horticulture, Punjab and another ...Petitioners

Versus

Presiding Officer, Industrial Tribunal, Patiala and another ...Respondents

CWP-933-2017 (O&M)

Director Horticulture, Punjab and another ...Petitioners

Versus

Presiding Officer, Industrial Tribunal, Patiala and another ...Respondents

CWP-934-2017 (O&M)

Director Horticulture, Punjab and another ...Petitioners

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Versus

Presiding Officer, Industrial Tribunal, Patiala and another ...Respondents

CWP-8236-2017

Principal Secretary, Printing & Stationary Department and others ...Petitioners

Versus

Jaswinder Singh ...Respondent

CWP-14816-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Gurmail Singh & another ...Respondents

CWP-14817-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Manjit Singh & another ...Respondents

CWP-14818-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

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Versus

Ravinder Pal Singh & another ...Respondents

CWP-14823-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Ashok Kumar & another ...Respondents

CWP-14824-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Rajinder Singh & another ...Respondents

CWP-14825-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Harminder Singh & another ...Respondents

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CWP-14834-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Salik Ram & another ...Respondents

CWP-14835-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Joginder Kumar & another ...Respondents

CWP-14836-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Harnek Singh & another ...Respondents

CWP-14837-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

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Tejinder Pal Puri & another ...Respondents

CWP-14838-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Ranjit Singh & another ...Respondents

CWP-14839-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Balwinder Singh & another ...Respondents

CWP-14840-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Gurdip Singh & another ...Respondents

CWP-15372-2017

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Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Gurdeep Singh & another ...Respondents

CWP-15373-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Dilbar Khan & another ...Respondents

CWP-15375-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Dev Dutt & another ...Respondents

CWP-15376-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Labh Singh & another ...Respondents

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CWP-15377-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Rajinder Kumar & another ...Respondents

CWP-15392-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Narinder Pal Singh & another ...Respondents

CWP-15616-2017

Principal Secretary, Printing & Stationary Department and another ...Petitioners

Versus

Jagjit Singh & another ...Respondents

CWP-22926-2017

Principal Secretary, Printing & Stationary Department

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Punjab and another **...Petitioners**

Versus

Dara Singh **...Respondents**

CWP-18379-2017

Executive Engineer, Construction Division No.1
P.W.D. B & R, Ferozepur and others **...Petitioners**

Versus

Avinash Chander and others **...Respondents**

CWP-368-2018

Executive Engineer, Central Division No.1
P.W.D. B & R, Patiala and others **...Petitioners**

Versus

Ram Lal and another **...Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. T.P.S. Chawla, Senior DAG, Punjab &
Mr. Soloman Pratap Singh, AAG, Punjab
for the petitioner-State.

None for the respondents.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present bunch of petitions, the challenge is by the petitioner-State to the awards passed by the Presiding Officer, Industrial

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Tribunal holding that in case, any Workman has worked on a Saturday, which is a holiday, he/she will be entitled for the salary for working extra on the said day.

2. Learned counsel for the petitioner-State submits that the impugned orders have been passed by the Labour Court without considering the actual facts including the letter dated 24.10.1980 (Annexure P/2), according to which, all Saturdays except which fall on a holiday, are working days. Learned counsel for the petitioner-State further submits that once, the Saturdays are working days, any employee, who worked on a Saturday, if the same is not a holiday, he is not entitled for any extra benefit and the extra benefit can only be given in case, the Saturday falls on a holiday and the employee has worked on the said day.

3. Learned counsel for the petitioner-State further submits that the second grievance of the petitioner-State is that without ascertaining as to whether the respondent-Workmen has worked on a Saturday on which date Workmen was not supposed to perform the duties as per work schedule so as to claim the wages for the same, the benefit of extra wages has been extended though, the employee is liable to show that as per the record, he has worked on a particular Saturday, which was beyond his duty hours so as to claim the said benefit and hence, rather than allowing the benefit of all the Saturday enblock for a period of three years prior to the judgment after settling the law, respondent-Workmen should have been asked to prove his/her entitlement for working on a particular Saturday which was officially a holiday so he/she was not liable to perform the duties, so as to

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claim the benefit of extra wages.

4. No one has put in appearance on behalf of the respondents-Workmen.

5. I have heard learned counsel for the petitioner-State and have gone through the record with their able assistance.

6. The argument of the learned counsel for the petitioner-State that an employee was required to work on Saturday by placing reliance upon the letter dated 24.10.1980 (Annexure P/2) is not correct as after the said letter, the petitioner-State has issued a letter dated 29.08.2012 (Annexure P/9-T), which has also been noticed in Paragraph No.21 of the impugned award, wherein, the petitioner-State has stated that the Saturday is a holiday in all the Government Gardens, Nurseries and Farms. Once, the said decision was taken, the respondents-Workmen were not required to work on Saturday and in case, Workman has been made to work on a particular Saturday, he/she has rightly been found entitled for the benefit of salary for working on such Saturday. Hence, the said argument has been raised by the petitioner-State without considering their own decision dated 29.08.2012 (Annexure P/9-T) hence, the same cannot be accepted.

8. Learned counsel for the petitioner-State has not been able to show that the said decision dated 29.08.2012 has ever been modified by the State so as to direct that the Staff working in the Government Gardens, Nurseries and Farms is not entitled for a holiday on Saturday.

9. That being the factual aspect, the findings recorded by the Tribunal in favour of the respondents-Workmen that any Workman, who has

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worked on a Saturday, will also be entitled for wages for working on such Saturday being a holiday, needs no interference by this Court.

10. Further, with regard to the argument which has been raised by the learned counsel for the petitioner-State that even if an employee has worked on Saturday, he/she has to claim the same by proving the said fact on record and granting the benefit of wages to the Workmen qua all the Saturday even without noticing the fact whether such employee actually worked on the said day or not, is not at all correct, is a valid argument.

11. A Workman is only entitled for the wages in case he/she has worked on a Saturday, which is a holiday. Proving of the working by the employee on a Saturday which is a holiday is must.

12. As per the settled principle of law, settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.1476 of 2003 titled as Nagar Council, Kapurthala vs. Davinder Kumar and others, decided on 14.02.2008*** in case, an employee has worked on a particular Saturday or on a holiday so as to claim wages for the same, the same has to be proved either before the Administrative department or before the Labour Court by filing application under Section 33-C(2) of the Industrial Dispute Act, 1947. Relevant paragraphs of the said judgment are as under:-

> "1. Having heard learned counsel for the parties,as we are of the opinion that for establishing their claim that they were entitled for wages for working on Saturdays and Sundays, the workmen must establish their legal right in the proceedings under Section 33C(2) of the Industrial Disputes Act,1947 where for they had been granted liberty to move the appropriate Labour Court in this behalf by this Court in *Municipal Employees Union(Regd) Sirhind & Ors. v. State*

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> *of Punjab and Ors. - (2000) 9 SCC 432,*the impugned judgment would not come on the way of the appellants herein in raising all contentions before the Labour Court if and when such applications are filed.
>
> 2. In this view of the matter, we are of the opinion that it is not necessary for us to interfere with the impugned judgment at this stage. We may notice that in Civil Appeal No. 5873 of 2006 disposed of on 15.12.2006, this Court observed as under:
>
> "5. An application under Section 33C(2) would be maintainable if the workmen has a legal right in relation to his claim. They will have to establish the same. In such a proceeding, undisputedly the appellants shall be entitled to raise all contentions before the Industrial Court. We, therefore, do not find any merit in these appeals. The appeals are dismissed."

13. The direction given by the Labour Court that all the employees should be given the salary for all the Saturdays for a period of three years preceding the filing of the application is not correct. The working of an Workman on a holiday/Saturday has to be proved so as to claim the wages hence, the Workmen are given liberty that in case, any Workman, who has worked on a holiday or on a Saturday, which is a holiday three years prior to the passing of the award, he/she shall produce the said record before the authorities concerned or said Workman has the liberty to approach the Labour Court under Section 33-C (2) of the Industrial Dispute Act, 1947 to prove the same before getting the wages for the said period. The respondents-Workman is only entitled for the wages in case, he/she has worked, which fact has to be proved before the authorities.

13. Keeping in view the above, impugned award(s) are modified to the extent that the benefit admissible to the respondents-Workmen for

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working on a holiday/Saturday has to be proved by the employee concerned before the department by filing representation with record of the details of the dates of holiday/Saturday on which the respondents-Workmen had worked and in case, the same is found to be correct by the administrative department, the salary will be released. In case, the department is disputing the working of a particular employee on a holiday/Saturday, Workman will be free to avail appropriate remedy before the Labour Court by filing application under Section 33-C (2) of the Industrial Tribunal Act, 1947 to claim the salary for working on a holiday.

14. The present petitions are disposed of in above terms.

15. Civil Miscellaneous application pending, if any, is also disposed of.

16. A photocopy of this order be placed on the files of connected cases.

February 06, 2025 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No

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