

Pepsu Road Transport Corporation Vs Pargat Singh and Another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Feb. 10, 1998

Acts Referred: Industrial Disputes Act, 1947 " Section 33C(2)

Citation: (1998) 119 PLR 299

Hon'ble Judges: T.H.B. Chalapathi, J

Bench: Single Bench

Advocate: B.S. Brar, for the Appellant;

Final Decision: Dismissed

Judgement

T.H.B. Chalapathi, J.

This Civil Writ Petition is filed challenging the award passed by the Labour Court, Jalandhar, dated August 6, 1985.

The respondent moved the Labour Court u/s 33-C(2) of the Industrial Disputes Act (hereinafter referred to as the Act) for computation of

monetary benefits to the tune of Rs.10,500/-.

2. According to the respondent, he was appointed as Assistant Store Keeper in the petitioner-organisation and his services were regularised in

1975. He was kept under suspension on July 12, 1976, but was reinstated on August 28, 1979. While ordering reinstatement, it was ordered that

the respondent is not entitled to any allowance over and above the subsistence allowance already drawn by him during the suspension period.

Contending that this portion of the order by which he was denied his allowance over and above the subsistence allowance, the respondent filed the

application u/s 33-C(2) of the Act before the Labour Court for computation of the monetary benefits and for a direction to pay the same. The

Labour Court held that the Deputy General Manager has no authority to pass the impugned order and the appointing authority is only the General

Manager and, therefore, the order is not valid and it is a nullity in the eye of law and accordingly allowed the application filed by the respondent

and determined the value of the monetary benefits to the tune of Rs.10,500/- and directed the petitioner to pay the same within two months from

the notice of this order.

3. The order dated August 23, 1979 which is filed as Annexure P-1 along with this petition reads as follows :-

S. Pargat Singh, ASK, Kapurthala, under suspension since July 12, 1976, is hereby reinstated in service with immediate effect. He will not be

paid over and above the subsistence allowance already drawn by him during the suspension period.

4. The said order was passed by the Deputy General Manager. It does not show that the order of suspension is validly made. It also does not

show why the respondent has been denied the pay and the allowance over and above the subsistence allowance already drawn by him during the

suspension period. No reasons have been give. Before passing of the said order restricting the pay and allowances to the respondent to the

subsistence allowance already drawn, by him, no notice has been given to the respondent. When pay and allowances during the period of

suspension is to be restricted to the subsistence allowance already drawn and when the respondent has been reinstated, it is obligatory on the part

of the dismissing authority to issue a notice to the employee to show-cause why the period of suspension cannot be treated as on duty and why

their pay and allowance are restricted to the substance allowance already paid. No such procedure has been followed by the Deputy General

Manager. Admittedly, the General Manager is the appointing authority. According to the petitioner, the powers of appointment and punishment

were delegated to the petitioner. The impugned order has been passed on August 23, 1979, whereas the delegation of the powers were said to

have taken place at a meeting held on February 3, 1979, and November 9, 1979. If it is November 9, 1979 then on the date when the orders

have been passed, the Deputy General Manager has no power to restrict the pay and allowances to the subsistence allowance already paid during

the period of suspension. There is nothing on record to show when the delegation of administrative powers came into force. In this view of the

matter, I do not find any ground warranting interference with the order of the Labour Court.

5. This Civil Writ Petition is devoid of any merit and is accordingly dismissed.