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(2013) 4 SCT 223

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 4905 of 1992

General Manager and Another	APPELLANT
Vs	
Amritk Singh and Another	RESPONDENT

Date of Decision: July 5, 2013

Citation: (2013) 4 SCT 223

Hon'ble Judges: Ajay Tewari, J

Bench: Single Bench

Advocate: Anil Sharma, D.A.G., Punjab, for the Appellant; Mahajan, for the Respondent

Judgement

Ajay Tewari, J.
By this petition the petitioner-State has challenged Award dated 23rd July, 1991 passed in favour of the workman. The workmen had filed claim-petition claiming Rs. 35,000/- which illegally stopped on account of the fact that his increment has not been granted to him and an amount of Rs. 10,000/- for bonus. In reply petitioner-State took the plea that the application is not maintainable u/s 33(C)(2) and the substantive claim-petition should have been filed. The second plea was with regard to delay because as per the petitioner State of Punjab the impugned amount had taken place in the year 1974 and the challenge had been led in the year 1986. It was further projected by the State that before imposing the punishment of stoppage of 3 increments with cumulative effect show cause notice has been issued and reply thereto had been considered. The Labour Court found that the show cause notice had been served on the respondent-workman on 20th August, 1974 but the reply purported to have been considered was of 12th August, 1974. He, therefore, held that this reply could not be related to the show cause notice. The Labour Court further found that the punishment of stoppage of 3 increments with cumulative effect is illegal and in any way this could not be done since this is a major penalty and this was not done. He rejected the claim for bonus and consequently allowed the application, hence present petition. Learned Additional Advocate General has argued that now

beyond the pain of any controversy that a substantive claim cannot be adjudicated u/s 33(2)(C) and could not be adjudicated only in application u/s 10(1)A of the Industrial Disputes Act. Learned counsel for respondent No. 2 has fairly accepted this position in law but has sought to argue that the orders impugned by the workman was ex-facie, illegal for the reasons mentioned by the Labour Court. He further argued that the workman has been suffered for almost 40 years, the impugned order is 22 years old and consequently in the extra-ordinary jurisdiction of this Court in the substantive interest of the justice the petition should be dismissed.

2. It may be mentioned here that this writ petition was ordered to be heard with C.W.P. No. 5757 of 1992, as it was also an identical case and the same has been decided by this Court by order dated 18th January 1995. This Court while placing reliance on the decision of Hon''ble Supreme Court in The Central Bank of India Ltd. Vs. P.S. Rajagopalan etc., follow by Central Inland Water Transport Corporation Limited Vs. The Workmen and Another, held that Labour Court had no jurisdiction to pass such an order u/s 33(2)(C). Learned Additional Advocate General has further relied upon another decision of this Court in C.W.P. No. 4096 of 1992, C.W.P. No. 4909 of 1992 and C.W.P. No. 12479 of 1992 wherein also identical questions were raised and the said writ petitions were also allowed by the Judgment and Order dated 20th April, 2011. Wherein apart from the judgments cited above this Court also relied upon another judgment of this Court in General Manager, Punjab Roadways and Another Vs. Dyal Singh and Others, .

In view of this catena of binding judgments I have no option, but to allow this writ petition and set aside the impugned order.