

SAT PAL PURI

v.

PUNJAB STATE ELECTRICITY BOARD & ORS.

(Civil Appeal No. 2235 of 2008)

FEBRUARY 21, 2008

(S.B. SINHA AND V.S. SIRPURKAR, JJ.)

Labour Laws:

Industrial Disputes Act, 1947; S.33-C(2)/Electricity Supply Act, 1948; Ss. 12 & 79(c) and Circulars dated April 5, 1972 and October 27, 1986 issued by the Punjab State Electricity Board:

Parity in remuneration – Employees belonging to technical service Grade-III and performing field duties – Claiming parity in remuneration for working on Saturdays and Sundays in terms of decision of Supreme Court in Municipal Employees Union vs. State of Punjab – Held: In terms of Circular dated April 5, 1972 issued by the Board, the technical field staff entitled to certain holiday as indicated therein – Another Circular issued by the board declaring that the Offices of the Board shall remain closed on Saturdays and Sundays – But the said Circular not applicable to the employees in question – In terms of judgment of Supreme Court in Municipal Employees Union's case, employees were ordered to claim extra wages for working on Saturdays and Sundays and could file application u/s,33(c) of the 1947 Act provided they were not governed by any statutory Rules – But employees in question governed by Regulations framed u/s.79(c) of 1948 Act – Hence, they could not file application u/s.33-C of the Act to claim benefit in terms of the said decision of the Supreme Court – Rule of Precedent – Applicability of.

Appellant-employees filed a writ petition before the Punjab and Haryana High Court claiming parity in the

A matter of remuneration for working on Saturdays and
Sundays in terms of the decision of this Court in Municipal
employees Union (Regd.) Sirhind & Ors. vs. State of Punjab
& Ors., wherein it was opined that in the absence of any
express provision to the contrary in Municipal bye-laws,
B the octroi staff could not be denied the benefit of non-
working Saturdays; that factual foundation for such claim
was required to be established; and that in the event if
the employees had filed applications under Section 33-C
(2) of the Industrial Disputes Act, the same may be
C entertained.

Disposing of the appeals, the Court

HELD: 1.1 From the Circular letter dated 5.4.1972
issued by the Punjab State Electricity Board, it appears
D that technical field staff would be entitled to the holidays
in a calendar year as stipulated therein. (Para – 8) [219-F]

1.2 The Circular dated 27.10.1986 issued by the
Punjab State Electricity Board declaring that the offices
of the Electricity Board shall remain closed on all the
E Saturdays and Sundays, would clearly show that the same
would be applicable only in respect of the officers and
employees working in the office of the Electricity Board
and not the Field Staff. The Circular dated 5.4.1972 has
not been repealed by Circular letter dated 27.10.1986. In
F view of the fact that the technical staff of the Board are
governed by Regulations framed under Section 79(c) of
the Electricity Supply Act, 1948, the appellants do not have
any existing legal right so as to enable them to file an
application under Section 33-C(2) of the Industrial
Disputes Act, 1947. (Paras – 10 & 11) [220-C, D, E]
G

1.3 Even in Municipal Employees Union's case, this
Court opined that the octroi staff could be entitled to the
said benefit of non- working Saturdays, were entitled to
extra wages in lieu thereof, if they are not governed by
H any of the rule. In case, the appellants being governed by

statutory rules, they would not be entitled to file applications under Section 33-C(2) of the 1947 Act. Hence, the impugned judgment and order of the High Court does not suffer from any legal infirmity. (Paras – 12 & 13) [220-F, G, H; 221-A] A

Municipal Employees Union (Regd.) & Ors. vs. State of Punjab & Ors. (2000) 9 SCC 432 – referred to. B

CIVILAPPELLATE JURISDICTION : Civil Appeal No. 2235 of 2008.

From the final Judgment / Order dated 11/3/2003 of the High Court of Punjab and Haryana at Chandigarh in R.A. No. 64/2003 in C.W.P. No. 19838/2002. C

WITH

Civil Appeal Nos. 6097/03, 6602/03, 6599/03, 6938/03, 7980/03, 7981/03, 6106/03, 6601/03, 6597/03, 6939/03, 6594/03, 7982, 1929, 2355, 2352, 1840, 1928, 1926, 1918, 1924, 1925, 1836, 4428, 4435, 4436, 4437, 6595, 4439, 4440, 4443, 6102, 6594/2003, 2172/2008, 2171/2008, 2170/2008, 2169/2008, 2168/2008, 2167/2008, 2166/2008, 2164/2008, 2165/2008, 2236/2008, 2237/2008, 2233-34, 2238, 2242/2008. D E

A.K. Ganguli, K.G. Bhagat, Manohar Singh Bakshi, Lakhbir Singh Bakshi, Debasis Misra, Ajay Majithia, Rajesh Kumar, Ravindra Keshavrao Adsure, Dr. Kailash Chand, Sudhir Nandrajog, Bimal Roy Jad, S.K. Sabharwal, Harinder Mohan Singh, Kaushal Yadav, Durgesh Yadav, Kuldip Singh, R.K. Pandey Madhukar Choudhary, Naresh Bakshi, Shalu Sharma, R.C. Kaushik, Arun K. Sinha, K.L. Mehta (for M/s. K.L. Mehta & Co.) K.J. John, Yash Pal Dhingra, P.K. Goldaney, A.P. Mohanty, Jagjit Singh Chhabra, Tarun Gupta, Nidhi Gupta, S. Janani, Dharmendra Kumar Sinha for the appearing parties. F G

The Judgment of the Court was delivered by

S.B. SINHA, J. 1. Leave is granted in the SLPs. H

A 2. Appellants filed a writ petition before the Punjab and
Haryana High Court at Chandigarh claiming parity in the matter
of remuneration for working on Saturdays and Sundays in terms
of the decision of this Court in *Municipal Employees Union*
(Regd.) *Sirhind & Ors. Vs. State of Punjab & Ors.*, (2000) 9
B SCC 432, wherein it was opined that in the absence of any
express provision to the contrary in Municipal bye-laws, the
octroi staff could not be denied the benefit of non-working
Saturdays and, thus, when required to work on such Saturdays,
they could be granted extra wages in lieu thereof. However,
C this Court further opined that factual foundation for such claim
was required to be established. It was also opined that in the
event if the employees had filed applications under Section
33C(2) of the Industrial Disputes Act, the same may be
entertained.

D 3. The Division Bench of the High Court in some cases
even without notice, allowed the writ applications filed by the
workmen opining that the State of Punjab cannot deny the said
benefit to the employees of other departments. Respondent-
Punjab State Electricity Board filed an application for review of
E the said judgment and by reason of the impugned judgment,
the Division Bench of the High Court held that the decision of
this Court in *Municipal Employees Union* (supra) is not
applicable. The appellants are, thus, before us.

F 4. The short question which arises for our consideration is
as to whether the decision of this Court in *Municipal Employees*
Union (supra) is applicable to the facts and circumstances of
this case. The Punjab State Electricity Board was constituted
and incorporated in terms of Sections 5 and 12 of the Electricity
Supply Act, 1948 (for short, 1948 Act). Under Section 79(c) of
G the 1948 Act, the Board subject to compliance of the statutory
requirements contained therein is entitled to frame its own
regulations. It is permissible for the Board to frame different
regulations for different categories of employees. It is a
department of the State of Punjab.

H

5. It is stated that Appellants herein belong to the technical category; service grade III, requiring to perform field duties. Supply of electricity is a public utility function of the Board. The Board therefore is required to have technical staff at their disposal, 24 hours a day, seven days a week.

6. It has been contended before us that in fact several regulations have been framed by the Board in this behalf. Several agreements have also been entered into by and between the Union and the Board. Some of the employees are also governed by the provisions of the 1948 Act.

7. Our attention has also been drawn to the fact that three categories of workmen are governed by different terms and conditions of service in regard to enjoyment of holidays; viz.

- a) Technical Staff (Regular) Work charged covered on the Factories Act 1948.
- b) Regular Technical Field Staff not covered under the Factories Act.
- c) Work charged employees not covered under the Factories Act.

8. It has also been stated that local outdoor duty allowance (LODA) to different categories of Technical/Field staff employees working on different duties, e.g. those working in the operations and R.E. Divisions, construction organizations are paid. The quantum of allowance is revised from time to time. Our attention has further been drawn to a circular letter dated 5.4.1972, from a perusal whereof it appears that technical field staff would be entitled to the holidays in a calendar year as stipulated therein, namely,

- i) Saturdays on alternate months-not exceeding five.
- ii) Half the number of Gazetted Holidays notified by the Board for the other staff.

9. We must however notice that the Punjab State Electricity

A Board had issued a circular letter dated 27.10.1986 which is in the following terms:

B "In compliance with the instructions issued vide this office order No.432/PSEB dated 24.05.1982, it is informed that all the officers of the Punjab State Electricity Board shall function from 9.00 a.m. to 5.00 p.m. from Monday to Friday with lunch break from 1.30 p.m. to 2.00 p.m. i.e. the same office timings of the Government of Punjab. The offices of the Electricity Board shall remain closed on all the Saturdays and Sundays.

C 2. The same holidays shall be observed in the offices of the Punjab State Electricity Board as are being observed in the office of the Punjab Government."

D 10. A bare perusal of the said circular dated 27.10.1986 would clearly show that the same would be applicable only in respect of the officers and employees working in the office of the Electricity Board and not the Field Staff. The circular letter dated 5.4.1972 has not been repealed by circular letter dated 27.10.86.

E 11. In view of the fact that the technical staff of the Board are governed by regulations framed under Section 79(c) of the 1948 Act the appellants herein do not have any existing legal right so as to enable them to file an application under Section 33-C(2) of the Industrial Disputes Act, 1947.

F 12. We have noticed hereinabove that even in Municipal Employees Union's case (supra), this Court opined that the octroi staff could be entitled to the said benefit of non-working Saturdays and when required to work on such Saturdays, were entitled to extra wages in lieu thereof, if they are not governed by any of the rule. In the case the appellants being governed by statutory rules, they would not be entitled to file applications under Section 33-C(2) of the 1947 Act.

G 13. For the aforementioned reasons, we are of the opinion H that the impugned judgment and order of the High Court does

not suffer from any legal infirmity. These appeals are, therefore, dismissed. No costs. A

Civil Appeal Nos. 7982, 1929, 2355, 2352, 1840, 1928, 1926, 1918, 1924, 1925, 1836, 4428, 4435, 4436, 4437, 6595, 4439, 4440, 4443, 6102 & 6594 of 2003 and 2238/2008, 2242/2008. B

Leave is granted in the SLPs.

It is stated by the learned counsel for the appellants that the appeals above-mentioned have been covered by order dated 14.2.2008 passed by this Court in Civil Appeal No. 1476/2003 and other connected appeals. These appeals are disposed of accordingly. C

S.K.S.

Appeals disposed of. D