

CASE NO.:
Appeal (civil) 2235 of 2008

PETITIONER:
SAT PAL PURI

RESPONDENT:
PUNJAB STATE ELECTRICITY BOARD AND ORS.

DATE OF JUDGMENT: 21/02/2008

BENCH:
S.B. SINHA & V.S. SIRPURKAR

JUDGMENT:
J U D G M E N T
(Arising out of S.L.P.(C) No.10133/2003)
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 & 9026/03
AND

Civil Appeal No. 2172/2008 @ SLP(C) No. 8270/04
Civil Appeal No. 2171/2008 @ SLP(C) No. 9291/04
Civil Appeal No. 2170/2008 @ SLP(C) No. 19851/03
Civil Appeal No. 2169/2008 @ SLP(C) No. 21645/03
Civil Appeal No. 2168/2008 @ SLP(C) No. 455/05
Civil Appeal No. 2167/2008 @ SLP(C) No. 2577/05
Civil Appeal No. 2166/2008 @ SLP(C) No. 20675/04
Civil Appeal No. 2164/2008 @ SLP(C) No. 5478/05
Civil Appeal No. 2165/2008 @ SLP(C) No. 19852/03
Civil Appeal No. 2236/2008 @ SLP(C) No. 19849/03
Civil Appeal No. 2237/2008 @ SLP(C) No. 2711/04
Civil Appeal Nos.2233-34/2008 @ SLP(C) Nos. 2712-2713/04

S.B. SINHA

Leave is granted in the SLPs.

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 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, 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.

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 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.

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 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.

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.

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.

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.

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.

We must however notice that the Punjab State Electricity Board had issued a circular letter dated 27.10.1986 which is in the following terms:

\023In 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.

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.\024

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.

In view of the fact that the technical staff of the Board are governed by regulation s 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.

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.

For the aforementioned reasons, we are of the opinion that the impugned judgment and order of the High Court does not suffer from any legal infirmity. These appeals are, therefore, dismissed. No costs.

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

Civil Appeal No. 2238/2008 @ SLP(C) No. 9026/03

Civil Appeal No. 2242/2008 @ SLP(C) No. 9284/04

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.