2026:HHC:36705

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA No.51 of 2020
Reserved on : 22.08.2026
Decided on : 31.08.2026
Uploaded on : 31.08.2026

The H.P. State Forest Corporation through its Managing Director and another

…… Appellants

Versus

Rosin and Turpentine Factory Employees Union through its General Secretary and another

…… Respondents

Coram:

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice

The Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting?[1]

For the appellants : Mr. Vijay Kumar Arora, Senior Advocate with M/s Gaurav Kumar, Hitansh Raj, Ankit Chauhan and Avantika Bhandari, Advocates.

For the respondents : Mr. A.K. Gupta and Ms. Babita Chauhan, Advocates, for respondent No.1.

Bipin Chander Negi, Judge

By way of the present appeal, a challenge has been laid to the judgment dated 05.08.2016 passed in ***CWP No. 7931 of 2010***, titled as ***The H.P. State Forest Corporation and Another v. Rosin and Turpentine Factory Employees Union and Another***, whereby the challenge laid to the award dated 27.07.2010 passed by the Industrial

---

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

Tribunal-cum-Labour Court by the present appellants/writ petitioners has been dismissed.

2. Heard counsel for the parties and perused the record.

3. The reference, in the case at hand, dated 03.07.2002 reads as follows:

> *"1. "Whether the workmen of Rosin & Turpentine Factory Nahan are entitled to the Compensatory Allowance w.e.f. 01-10-1985 as given by the Central Govt. to its employee? If yes, from which date such allowance is admissible to workmen of above factory."*
>
> *2. "If not, then whether the workmen of above factory are entitled to the compensatory allowance as given by the H.P. Govt. to its clerical staff? If so, from which date such allowance is admissible?"*
>
> *3. "If not, then what type of compensatory allowance the above workmen are entitled to and from which date?""*

4. In pursuance to the aforesaid, present respondent No. 1 had filed a claim petition before the Industrial Tribunal-cum-Labour Court, praying therein that the Remote Locality/Special Compensatory Allowance be paid to them at par with other Central Government employees. The respondent No. 1 was seeking enhanced Remote Locality/Special Compensatory Allowance.

5. In the claim petition, it had been averred that in the Rosin & Turpentine Factory, there are two types of establishments: (a) Ministerial Establishment governed by pay and allowances of the Himachal Pradesh Government; (b) Industrial Establishment comprising of industrial workers who are engaged in the manufacturing process and governed by the Central pattern of pay scale, other allowances. The claimant/respondent No. 1 belongs to the second category.

6. Besides the aforesaid, it had been categorically averred in the claim petition that the Ministerial Establishment in the Rosin & Turpentine Factory is getting compensatory allowance. In the claim petition, a detail of Central Government employees belonging to other departments who were being paid compensatory/local allowance was also given.

7. A response to the claim petition was filed. In the response filed, it was never mentioned that compensatory allowance is being paid to the Industrial Establishment of the Rosin & Turpentine Factory, to which respondent No. 1 belonged, nor was it mentioned in the reply that the grant of the said benefit was being given unauthorizedly to respondent No. 1 in the Rosin & Turpentine Factory. The grant of the same to the Ministerial staff in the Rosin & Turpentine Factory was admitted.

8. Further, in the reply, it was categorically asserted that benefits mentioned in notification dated 31.05.1991 were meant for Central Government employees, whereas respondent No. 1/claimant are State Forest Corporation employees drawing pay and allowances on the

pattern of Railway Workshop, as per the Standing Orders mentioned. Reference has been made to Clause 32 of the Standing Orders in this respect. In the aforesaid facts and attending circumstances, it was contended that the said benefits are not admissible to the claimant/respondent No. 1.

9**.** Based on the ocular and documentary evidence led before the Industrial Tribunal-cum-Labour Court, the Tribunal arrived at a categorical finding that the ministerial staff working in the Rosin & Turpentine Factory were being paid compensatory allowance as per pay scale of Himachal Pradesh government, therefore, the members of respondent No.1/claimant could not be denied the same as the denial of the same would be discriminatory. On an examination of the reply filed to the claim petition by the appellants before the Industrial Tribunal-cum-Labour Court it is evident that the grant of compensatory allowance to the ministerial staff working in the factory has been admitted in the reply so filed. Therefore, the said finding has not been disturbed by the writ court in the judgement under challenge.

10. The contention(fact) that the Compensatory Allowance was being paid unauthorizedly to the Rosin & Turpentine Factory workers, i.e., claimant/respondent No. 1, was rejected by the Labour Court on the ground that if the same was being paid unauthorizedly, then the same should have been pointed out in audit reports prepared by the audit staff. Suffice it to state that in the reply filed to the claim petition, the fact of payment of Compensatory Allowance was concealed by the present

appellant. Hence, the aspect of unauthorized payment was never raised in the reply. The same was raised while leading evidence when RW-1 Swaran Singh, General Manager Rosin & Turpentine Factory deposed on behalf of the appellants with respect to the payment of Compensatory Allowance to the claimant/respondent No.1. The appellant cannot be permitted to take the plea of unauthorized payment of Compensatory Allowance when it was never raised in the response filed to the claim petition, as it is settled principle that evidence cannot be led beyond the pleadings. The finding so returned was correctly not interfered by the writ court.

11. Other than the aforesaid, the Tribunal returned a specific finding that Remote Locality/Compensatory Allowance was being paid to the employees of Nahan Foundry with effect from 01.10.1985 and that the employees of the Nahan Foundry and that of the Rosin & Turpentine Factory in the case at hand are governed by the Jagadhri Railway Workshop pattern of pay and allowances. From the claim petition filed, it is evident that therein in paragraph 2, it had been alleged that the employees of the Nahan Foundry were being paid Compensatory Allowance and that the terms, conditions of the employees of the Nahan Foundry were the same as the factory workers of the Rosin & Turpentine Factory. In the response filed there is no specific denial qua the employees of the Nahan Foundry being paid Compensatory Allowance nor with respect to the fact that the terms, conditions of the employees of the Nahan Foundry were the same as the factory workers of the Rosin &

Turpentine Factory. Rather the stand taken is that the factory workers of the Rosin & Turpentine Factory were being paid on the pattern of Railway Workshop. In evidence PW-2 one Saleem Ahmed the General Secretary of the Nahan Foundry Mazdoor Union produced by the present respondent no 1 before the Labour Court has deposed qua payment of Compensatory Allowance to the employees of the Nahan Foundry, similarity of the pay pattern with factory workers of the Rosin & Turpentine Factory and that both establishments are governed by the Jagadhri Railway Workshop pattern of pay and allowances. The said deposition has not been subjected to any cross examination.

12. The non-grant of the Special Compensatory Allowance on the ground that the same is not being paid in the Jagadhri Railway Workshop has been correctly rejected by the learned Labour Court on the ground that the same was being paid to the claimant/respondent No. 1, in the case at hand, and was also being paid to the employees of the Nahan Foundry despite being governed by the Railway Workshop pattern of pay and allowances. From the material on record discussed supra, admissions on account of no specific denial in pleadings qua Nahan Foundry being paid Compensatory Allowance, the terms, conditions of the employees of the Nahan Foundry being the same as the factory workers of the Rosin & Turpentine Factory and evidence led by the present respondent before the Labour Court specially PW-2, it is clear that both sets of employees working in the Nahan Foundry and the factory workers of the Rosin &

Turpentine Factory were working on the same terms, conditions and being paid Compensatory Allowance.

13. Other than the aforesaid, the Compensatory Allowance/Remote Locality Allowance is being paid to the employees of the factory, but on old rates. The Industrial Tribunal-cum-Labour Court held that Central Government employees posted at Nahan were getting revised Special Compensatory Allowance with effect from 01.10.1985 on the Central Government pay pattern/pay scales. In the aforesaid backdrop, the Tribunal was of the view that respondent No. 1 Union/claimant are entitled to revised Special Compensatory Allowance with effect from 01.10.1985, as per their respective pay scales at par with Central Government employees. The said finding of fact given by the Tribunal has not been disturbed by the Writ Court in its impugned judgment dated 05.08.2016.

14. The Writ Court was of the view that findings of fact recorded by the Tribunal below on appreciation of evidence cannot be questioned in writ proceedings and that the Writ Court cannot act as an Appellate Court. In this respect, reliance was placed upon the judgment passed by the Division Bench of this Court, in ***CWP No.4622 of 2013*** titled ***M/s Himachal Futuristic Communications Ltd. Vs. State of HP and another*** and judgments passed by the Hon'ble Apex Court in ***Bhuvnesh Kumar Dwivedi vs. M/s Hindalco Industries Ltd. 2014 AIR SCW 3157*** & ***Ishwarlal Mohanlal Thakkar vs. Paschim Gujarat Vij Company Ltd. And another (2014) 6 SCC 434***.

15. In view of the above stated/discussed legal and factual matrix, we find no merit in the appeal, and the same is accordingly dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

August 31, 2026 **(KS)**