

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).6387/2003

From the judgment and order dated 21.11.2002 in WP.18461/2002

of the High Court of Punjab and Haryana at Chandigarh)

MUNICIPAL COUNCIL, NANGAL

Petitioner(s)

VERSUS

MOHAN LAL & ORS.

Respondent(s)

(With prayer for interim relief )

Date: 24/11/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s) Mr. Ajay Majithia, Adv.

Mr. Rajesh Kumar, Adv.

Dr. Kailash Chand,Adv.

For Respondent(s) Mr. K.G. Bhagat, Adv.

Mr. Vineet Bhagat, Adv.

Mr. Manohar Singh Bakshi, Adv.

Mr. Debasis Misra,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed but without any order as to costs.

[ Usha Bhardwaj ]

Court Master

[ Pushap Lata Bhardwaj ]

Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....OF 2006

(Arising out of S.L.P. (Civil) No. 6387 of 2003)

Municipal Council, Nangal

...Appellant(s)

Versus

Mohan Lal & Ors.

...Respondent(s)

O R D E R

Leave granted.

The appellant is before us being aggrieved by and dissatisfied with by the judgment and order dated 21.11.02 passed in CWP.No.18461 of 2002 whereby and whereunder the writ petition filed by the respondents herein was disposed of directing :

"If the petitioners have performed their duties on Saturdays and Sundays then in terms of the judgment of the Supreme Court, their claim can hardly be refuted. Appropriate remedy in terms of the above judgment is under the Industrial Disputes Act, but we do hope that respondents would not compel the petitioners to take recourse to such procedural law. The petitioners will be therefore, at liberty to invoke the provisions of Section 33-C(2) of the Industrial

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Disputes Act, as their right to receive monetary benefits has already been settled by the Supreme Court in case the relief due to them is denied."

The purported legal right on the basis whereof the respondents appear to have moved the aforementioned application before the High Court was the decision of this Court in Municipal Union (Regd) vs. State of Punjab since reported in

2000 (9) SCC 433. Keeping in view the facts that therein no

Municipal bye law was expressly made requiring all the staff

members to have six days' working in a week, it was opined that

the appropriate remedy of the workman was to be worked out in

terms of Section 33-C(2) of the Industrial Disputes Act. Following

the said decision the High Court has passed the impugned

judgment.

Before us, it is contended that the State of Punjab has

made the Punjab Municipal Karamchari Service Rules, 1984 in

terms whereof each member shall have paid holidays only once a

:3:

week. It is submitted that in view of the said rule no extra wage

can be directed to be paid in favour of the safai karmchari if they

are asked to carry out work on Saturdays. They also submitted

that other categories of employees are governed by the Punjab

Employees (Class IV)\_ Service Rules, 1986 where a similar

provision exists.

Mr. Bhagat, learned counsel appearing on behalf of the

respondents submit that provision of the said rules have not been

brought to the notice of the High Court.

Having regard to the facts and circumstances of the

case, we are of the opinion that the interest of justice will be

subservied if the parties are given an opportunity to place the said

rules before the High Court so as to enable the High Court to

determine the applicability thereof to the facts of the present

case. The High Court may consider the matter from that angle.

For the aforestated reasons the impugned judgment is set aside.

The matter is remitted to the High Court for consideration of the

matter afresh on its own merit.

:4:

The appeal is allowed accordingly but without any order

as to costs.

.....J.

[S.B. SINHA]

.....J.

[MARKANDEY KATJU]

New Delhi,

November 24, 2006.