

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.3487-3492 OF 2004

State of Punjab & Ors. ... Appellants

versus

Surinder Singh & Ors. ... Respondents

O R D E R

1. The present appeals exposit a checkered history, an unwarranted one. As the facts would uncurtain, the Punjab Government Employees had threatened to go on a strike on 08.02.1978 which impelled the Punjab Government to issue a circular on February 6, 1978 addressing to all the Heads of Departments in the State of Punjab that the Government had always been considering sympathetically the genuine demands of the employees and had recently allowed additional dearness allowance installments on the pattern of the Central Government and other benefits and, therefore, the said Heads of Departments should make it clear to the employees that if they go on strike, strict action will be taken against them and in case of ad hoc employees, their services would be terminated. Thereafter on 16.06.1978, the State issued another circular directing all the Heads of Departments in the State of Punjab to extend certain benefits to the employees who had not participated in the strike on 08.02.1978. The said circular stipulated that they shall be granted the benefit of one

premature increment. It was further postulated that the said benefit would not be made available to ad hoc employees but only would be confined to regular employees.

2. Certain employees who were aggrieved by such kind of grant of premature benefit limiting it to only regular employees approached the High Court. The matter was ultimately adjudicated by the Full Bench of the High Court in Civil Writ Petition No.14874 of 1995 which was decided on 04.05.1998. The Full Bench held that the policy decision taken by the Government denying the increment to the ad hoc employees who had not participated in the strike could not be found fault with. It also took note of the contention that some employees who were ad hoc at the time of the strike but regularised with retrospective effect would be entitled to the benefit of premature increment.

3. There is no cavil over the fact that the respondents herein were ad hoc employees at the time of strike. However, after the judgment was rendered by the Full Bench, they approached the High Court in Writ Petition No.19057 of 2001. The Division Bench of the High Court, as it seems, did not take note of the Full Bench decision and passed the following order :

"When this writ petition came up for hearing yesterday the court directed the Finance Secretary to be present in court to explain why the court decisions are not being implemented qua the similarly situated government employees when their cases are otherwise covered by the decisions of this court. Ms. Charu Tuli, Deputy Advocate General appearing for the respondents

states that the Finance Secretary would be present in a short while and she requests that the case be taken up after some time. She has, however, informed us that the State Government through Personnel Department has taken a decision to implement the court decisions even qua the employees who did not file writ petitions and that all government employees who are covered by the aforesaid instructions and the court decisions would be given the benefit. She further states that the amount due to the writ petitions and the other similarly situated government employees will be released to them on or before May 31, 2002 and that the arrears will be restricted for a period of 38 months from today."

4. An application for review was filed which did not meet with success.

5. Mr. Nayyar, learned counsel for the State of Punjab would submit that the Division Bench has erred in law by giving a decision contrary to the law laid down by the Full Bench. He has also invited our attention to the decision by this Court in C.A. No.5432 of 2001 wherein the order passed in CWP No.4157 of 1992 was called in question. Dismissing the appeal, this Court held as follows :

"In as much as the High Court has followed the full bench judgment, we do not think we should entertain this matter. The petition shall stand dismissed notwithstanding the fact that it is alleged that in certain other matters relief has been granted and we do not know for what reasons these reliefs have been granted. Appropriate Judicial discipline requires that the full bench judgment of the High Court ought to be followed by the other benches of the High Court. The petition is dismissed accordingly."

6. Be it noted, this fact was brought to the notice of the Division Bench in the application for review. The Division Bench, instead of rectifying itself, maintained its stand. In our considered opinion, if a decision is totally erroneously rendered in ignorance of a Full Bench decision relating to the same issue, it would have been appropriate on the part of the Division Bench to review its order. Needless to emphasise, the concession given by the Finance Secretary in court cannot have no validity when it is in oppugnation of law, i.e., the law laid down by the Full Bench.

7. Having said that, we think it appropriate to refer to the second principle that has been laid down by the Full Bench in paragraph 18 of the said judgment. It reads as follows :

"18. So far as the point raised by the learned counsel for the petitioner that those ad hoc employees who had not been regularised by February 8, 1978, were also granted the benefit of premature increment though they might have been regularised later on but w.e.f a date prior to or up-to February 8, 1978, and, therefore, the petitioners who were also regularised though much after February 8, 1978, should not be discriminated against, we find no force in this argument. Those ad hoc employees who were liable to be regularised on or before February 8, 1978, but for no fault of theirs no orders had been passed were held entitled to the benefit by the Government as if in fact they were regular employees as on February 8, 1978. In the words, the benefit was only been given of premature increment to regular or virtually regular employees who were there as such on February 8, 1978."

8. The aforesaid paragraph carves out a situation that if an

employee is regularised at a later stage but with effect from the date when the strike took place, he will be entitled to the benefit of premature increment. The facts are not clear in this regard and, therefore, we would like the competent authority of the State Government to scrutinise the cases of each of the respondents in the backdrop of para 18 of the Full Bench which we have reproduced hereinabove within a period of three months and communicate to them.

9. Resultantly, the appeals are allowed to the extent indicated above and the order dated 17.01.2002 passed by the Division Bench in Civil Writ Petition No.19057 and order dated 12.09.2003 passed in Review Petition No.329 of 2002 are set aside. The competent authority shall decide the matter as directed hereinabove. In the facts and circumstances of the case, there shall be no order as to costs.

.....,J.
(Dipak Misra)

.....,J.
(Adarsh Kumar Goel)

New Delhi;
February 12, 2015.

ITEM NO.106

COURT NO.6

SECTION IV

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

Civil Appeal No(s). 3487-3492/2004

STATE OF PUNJAB & ORS.

Appellant(s)

VERSUS

SURINDER SINGH & ORS.

Respondent(s)

(with office report)

Date : 12/02/2015 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Appellant(s) Mr. Nikhil Nayyar, AAG, Punjab
Mr. Kuldip Singh, Adv.

For Respondent(s) Mr. R.K. Kapoor, Adv.
Ms. S. Rama, Adv.
Mr. Anis Ahmed Khan, Adv.

Mr. Debasis Misra, Adv.
Rr-ex-parte.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are allowed in terms of the signed order.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)