

Before Rajesh Bindal, J.

ROOP LAL AND OTHERS—Petitioners

versus

STATE OF PUNJAB AND OTHERS—Respondents

CWP No. 11556 of 2011

November 8, 2012

Constitution of India, 1950 - Art. 226, 14 - Service Law - Local Bodies - Punjab Municipal Safai Karamchari Service Rules 1984 - Discrimination - Sweepers and Mate employed with Municipal Council - Seek benefit of holiday of Saturday - Equal to counterparts working in office - Discrimination alleged - Held, when there are specific Rules applicable to a post, then Petitioner cannot be held entitled to benefit applicable to counterparts in offices governed by separate set of Rules - Writ petition dismissed.

Held, that in the case in hand, there are specific Rules applicable for the post in terms of which the members of the service are entitled to have one paid holiday in every week besides other notified holidays. Hence, to claim that the petitioners should be granted extra payment for working on Saturdays, is not tenable. The case of the petitioners cannot be equated with other cases, as have been referred to by counsel for the petitioners for the reasons that no service Rules governing the paid holidays to be enjoyed by the members thereof have been referred to in the aforesaid judgment.

(Para 9)

P. K. Goklaney, Advocate, *for the petitioners.*

Manoj Bajaj, Additional Advocate General, Punjab.

Om Pal Sharma, Advocate, for respondent no. 3.

RAJESH BINDAL, J.

(1) The petitioners, who are working as Sweepers and Mate with Municipal Council, Ferozepur, have approached this court for a direction to the respondents to grant benefits equal to their counter parts working

in the office and also extend them the benefit of judgment of Hon'ble the Supreme Court in Civil Appeal No. 8434 of 1997 *Municipal Employees Union (Regd.) Sirhind and others vs State of Punjab and others*, decided on 15.3.2000.

(2) Learned counsel for the petitioners submitted that Punjab Government vide notification dated 7.4.1980 notified that all Saturdays of every month instead of second and last Saturdays of each month shall be observed as holidays in the Government offices. As the petitioners are also working in Local Bodies, they are also entitled to holiday on Saturdays. But the employees, who are similarly situated and working in the offices are to work for five days in a week, whereas the petitioners who are working in the field, are made to work for six days in a week. For claiming the relief, learned counsel for the petitioners placed reliance upon judgment of this court in CWP No. 1539 of 1987 – *Niranjn Dass and others vs The State of Punjab and another* decided on 29.3.2006.

(3) On the other hand, learned counsel for the respondents submitted that the petitioners are governed by the Punjab Municipal Safai Karamchari Service Rules, 1984 (for short, 'the Rules'). Rule 17 thereof prescribes the holidays to which each member of the service is entitled to. It is clearly mentioned therein that the employees governed by the aforesaid Rules are entitled to one paid holiday in a week and three national holidays i.e. January 26, August 15 and October 2, and four other holidays at the option of the members of the service on any of the festivals specified in Appendix-C.

(4) It was further submitted by learned counsel for the respondents that as the petitioners are governed by the statutory Rules, which clearly prescribe the number of paid holidays each member of the service is entitled to, they are not entitled to extra payment for working on Saturdays. He further submitted that even Hon'ble the Supreme Court in *Municipal Employees Union (Regd.) Sirhind and others versus State of Punjab and others (1)*, held that if there are service rules governing the number of holidays, the same have to be given precedence. Only in the absence thereof, set of employees similarly situated cannot be discriminated as regards their working days/ working hours. Hence, the petitioners are not entitled to any relief whatsoever.

(5) Heard learned counsel for the parties and perused the paper book.

(6) Though the learned counsel for the petitioners sought to argue that the petitioners are being discriminated regarding their working days vis-a-vis the employees working in the office, however, the petition is lacking in detail. The pleadings are totally vague.

(7) In the present case the respondents have specifically referred to the Rules, which clearly provide number of paid holidays, to which the employees governed by the service are entitled to. Relevant Rules are extracted below:-

"1. Short Title : These rules may be called the Punjab Municipal Safai Karamchari Service Rules, 1984.

They shall come into force at once.

They shall apply to the person specified in Appendix 'A'.

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17. Holidays : (1) Each member shall have :

(a) a paid holiday once a week;

(b) three National Holidays, namely;

(1) 26th January;

(2) 15th August; and

(3) 2nd October;

(c) four other holidays at the option of the member on any of festivals specified in Appendix 'C'."

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APPENDIX 'A'

[Sec rules 1 (3) and 3]

Serial No.	Designation of Post
1	Safai Karamchari/ Sewerman
2	Sanitary Matc/ Sanitary Jamadar

(8) Hon'ble the Supreme Court in *Municipal Employees Union (Regd.) Sirhind's case* (supra) held that unless there is any express provision in the Municipal By-laws requiring all the staff members to have six days' working per week, it will not be open for the Municipal Committees to deny the benefit of non-working Saturdays only to those staff members who are posted in field. Relevant para thereof is extracted below:-

“So far as this question is concerned unless there is any express provision in the municipal bye laws requiring all the staff members to have six days working per week, in our view, it would not be open to the respondent Municipal Committees to deny the benefit of nonworking Saturdays only to those staff members who have because of the exigencies of service, to discharge their duties at octroi check posts or barriers rather than in the offices. But that would require a further question as to whether, at the relevant time at which the concerned employees like the appellants have actually worked on Saturdays, their colleagues in the offices had enjoyed such holidays and further whether the bye-laws of the Municipal Committees required the employees, by way of their service conditions, to discharge their duties for six days in a week and, therefore, it was open to the municipal authorities, looking to the exigencies and pressure of work, to give some additional concession to only those office staff members who would have been permitted not to come for work on any Saturdays. Therefore, all that we can lay down in the present proceedings is to the effect that if the appellants, at the relevant time at which they claim to have earned the right to enjoy holidays falling on Saturdays were made to work while their colleagues similarly situated like them, working in the offices of the Municipal Committees were given the benefit of such holidays and when there were no bye-laws requiring the employees to work for 6 days in a week, then they would be entitled to be given monetary compensation for the working Saturdays by grant of extra wages for each of the working Saturdays on which they are shown to have discharged their duties.” (emphasis applied)”

(9) In the case in hand, there are specific Rules applicable for the post in terms of which the members of the service are entitled to have one paid holiday in every week besides other notified holidays. Hence, to claim

that the petitioners should be granted extra payment for working on Saturdays, is not tenable. The case of the petitioners cannot be equated with other cases, as have been referred to by counsel for the petitioners for the reasons that no service Rules governing the paid holidays to be enjoyed by the members thereof have been referred to in the aforesaid judgment.

(10) For the reasons mentioned above, I do not find any merit in the present writ petition. The same is accordingly dismissed.

S. Gupta