

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Civil Writ Petition No.9 of 2000.

Date of decision:29.12.2005.

The Director of Agriculture. ...Petitioner.

Versus

Dev Raj & Others ... Respondents.

Coram

The Hon'ble Mr. Justice K C Sood, J.

Whether approved for reporting ?¹

For the Petitioner: Mr.Ashok Chaudhary, Additional
Advocate General.

For Respondent-45: Mr.Yoginder Paul, Advocate.

For Respondent-51: Mr.Suresh Chand Sharma, Advocate.

K C SOOD, J. (Oral) .

It appears the respondents were employees of the Government of Himachal Pradesh in the Department of Agriculture and were working in the Agricultural Workshop at Bhangrotu in the District of Mandi. In December, 1977 this workshop was taken over by the Himachal Pradesh Agro Industries Corporation Limited. The respondents were offered employment in the Corporation on the terms and conditions that the Corporation will protect the pay scales of the employees which were held by them at the relevant time as also the emoluments. It was also provided that all these employees would cease to be the

¹ *Whether the reporters of Local Papers may be allowed to see the judgement?*

Government employees, however, their past services were to be counted for all purposes including leave, pension etc.

It appears that the Management of the workshop increased the working hours by half an hour i.e. from 9.00 A.M. to 5.00 P.M. to 9.00 A.M. to 5.30 P.M. The respondents workmen resented this move and did not comply with the orders of the Corporation. The Management deducted wages for half an hour of all these employees.

Dis-satisfied, the present respondents, employees of the Corporation, filed an application under Section 33-C(2) of the Industrial Disputes Act before the learned Labour Court, Shimla. The Labour Court vide its impugned order dated 23rd September, 1999 allowed the application and directed the payment of the wages for half an hour which was deducted by the present petitioner within a period of three months from the date of the orders.

Dis-satisfied, State is in this petition under Article 226 of the Constitution of India.

Heard learned Additional Advocate General and the learned counsel for the parties.

A reading of Section 9(A) of the Industrial Disputes Act, 1947, shows that it is necessary for any employer, who proposes to change the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, not to effect such change without giving to the workmen, likely to be affected by such change, a notice in the prescribed form and manner detailing the change proposed to be made and it

only after 21 days of such notice having been given that change in the conditions of service can be effected.

Schedule-4 provides for the conditions of service for change of which notice is required to be given to the employees. Under Sr.No.4 if any change in the conditions of working of workman is to be made then notice necessarily has to be given to the employees in terms of Section 9-A of the Act.

In the present case admittedly no notice to the employees in terms of Section 9-A was given. It is in this view of the position in law that the Labour Court came to allow the application of the respondents. The order of the Labour Court is not visited with any illegality.

There is no merit in this petition.

Dismissed.

No costs.

CMP No.1500 of 2004.

No order, in view of the order passed in the main petition. The application is disposed of.

December 29, 2005
(aks)

(K C Sood)
Judge.