

Jaswant Singh and Another

Vs

State Of Punjab

Civil Appeals Nos. 12832-33 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

23.09.1996

ORDER

1. Leave granted.
2. We have heard learned counsel for the parties.
3. These appeals by special leave arise from the judgment of the Punjab and Haryana High Court made on 18-7-1995 in CWPs Nos. 3020 and 3027 of 1994.
4. The appellants were appointed as drivers. While in service, they became blind and, therefore, they sought for alternative appointment. Instead, they were removed from service. The controversy is no longer res integra. This Court in Anand Bihari v. Rajasthan SRTC [(1991) 1 SCC 731 : 1991 SCC (L&S) 393 : (1991) 16 ATC 449] had considered the controversy in similar circumstances and issued directions for alternative appointment as indicated in para 15 of the judgment : (SCC pp. 742-43)

"In view of the helplessness shown by the Corporation, we are constrained to evolve a scheme which, according to us, would give relief as best as it can to the workmen such as the ones involved in the present case. While evolving the scheme and giving these directions we have kept in mind that the workmen concerned are incapacitated to work only as drivers and are not rendered incapable of taking any other job either in the Corporation or outside. Secondly, the workmen are at an advanced age of their life and it would be difficult for them to get a suitable alternative employment outside. Thirdly, we are also mindful of the fact that the relief made available under the scheme should not be such as would induce the workmen to feign disability which, in the case of disability such as the present one, viz., the development of a defective eyesight, it may be easy to do. Bearing in mind all the aforesaid factors, we direct the Corporation as follows :

- (i) The Corporation shall in addition to giving each of the retired workmen his retirement benefits, offer him any other alternative job which may be available and which he is eligible to perform.
- (ii) In case no such alternative job is available, each of the workmen shall be paid along with his retirement benefits, an additional compensatory amount as follows :
 - (a) where the employee has put in 5 years' or less than 5 years' service, the amount of

compensation shall be equivalent to 7 days' salary per year of the balance of his service;

(b) where the employee has put in more than 5 years' but less than 10 years' service, the amount of compensation shall be equivalent to 15 days' salary per year of the balance of his service;

(c) where the employee has put in more than 10 years' but less than 15 years' service, the amount of compensation shall be equivalent to 21 days' salary per year of the balance of his service;

(d) where the employee has put in more than 15 years' service but less than 20 years' service, the amount of compensation shall be equivalent to one month's salary per year of the balance of his service;

(e) where the employee has put in more than 20 years' service, the amount of compensation shall be equivalent to two months' salary per year of the balance of his service.

The salary will mean the total monthly emoluments that the workman was drawing on the date of his retirement.

(iii) If the alternative job is not available immediately but becomes available at a later date, the Corporation may offer it to the workman provided he refunds the proportionate compensatory amount.

(iv) The option to accept either of the two reliefs, if an alternative job is offered by the Corporation, shall be that of the workman."

5. Under these circumstance, the appeals are allowed. The respondent is directed to consider the cases of the appellants for alternative appointment as and when vacancies arise. No costs.