

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION NO.1907 OF 2005

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Between:

M/s. Voltas Limited, Secunderabad

.. Petitioner

and

Sri B. Srihari and others

.. Respondents

DATE OF JUDGMENT PRONOUNCEMENT
2015

: 29th OCTOBER,

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. | Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. | Whether copies of the Judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. | Whether His Lordship wishes to
see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.1907 OF 2005

ORDER

M/s. Voltas Limited, Secunderabad, filed this writ petition challenging the order dated 06.12.2004 passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, (hereinafter, referred to as 'the Labour Court') in M.P.No.39 of 1999 filed by respondents 1 and 2 herein along with four others. By the said order, the Labour Court held that respondents 1 and 2 were, in effect, employees of M/s. Voltas Limited, which could be termed as the principal employer running the co-operative canteen through its agent, M/s. Voltas Employees Co-operative Canteen, Secunderabad, and directed it to pay the claimed amounts of Rs.13,008/- and Rs.12,918/- respectively to them.

By order dated 17.02.2005, this Court granted interim suspension of the order passed by the Labour Court subject to deposit of the awarded amount within a time frame. The Labour Court was directed to keep the said amount in a fixed deposit till disposal of the writ petition or till further orders. This interim order was made absolute on 11.06.2008, when the vacate stay petition filed by respondents 1 and 2 herein was dismissed.

The writ petition was dismissed for default against M/s. Voltas Employees Co-operative Canteen, the third respondent, as per the Court Order dated 30.12.2010, which was given effect to on 09.03.2011. However, a restoration petition was filed on behalf of the third respondent and as Sri S. Sriram, learned counsel for the petitioner company, and Sri V. Hari Haran, learned counsel for respondents 1 and 2 herein, stated that they had no objection to restoration of the writ petition as against the third respondent, the petition was ordered on 14.09.2015 without going

into the merits of the various averments made in the affidavit filed in support thereof.

Heard Sri S. Sriram, learned counsel for the petitioner company, Sri V. Hari Haran, learned counsel for respondents 1 and 2, and Sri K. Srinivas Rao, party-in-person, representing the third respondent, in the purported capacity of its President.

In so far as the third respondent is concerned, the Labour Court recorded that it had become defunct and in that view of the matter, it would be inoperative to pass any order against it. Respondents 1 and 2 have accepted this order and they did not choose to assail this finding of the Labour Court. In that view of the matter, the third respondent has no redressable grievance before this Court which needs to be addressed.

The core issue that falls for consideration in this writ petition is whether the Labour Court could have entertained the petition filed by respondents 1 and 2 herein along with others under Section 33-C (2) of the Industrial Disputes Act, 1947 (for brevity, 'the Act of 1947').

It is pertinent to note that the other four persons, who joined respondents 1 and 2 in filing the subject claim petition, got their case dismissed as withdrawn on 20.07.2001 on the ground that their dispute with the petitioner company was settled out of Court.

The claim of respondents 1 and 2 was that they were employed in the Voltas Employees Co-operative Canteen which was purportedly started at the behest of the petitioner company in the premises of its factory to cater to the needs of its employees. They further claimed that the petitioner company was their principal employer though the canteen was run by a co-operative society, M/s. Voltas Employees Co-operative Canteen, the third respondent. They stated that the petitioner company did not extend to them statutory benefits under the Employees State Insurance Act, 1948 (for brevity, 'the Act of 1948') and The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for brevity, 'the Act of 1952') and aggrieved thereby, they submitted applications to the authorities concerned. T h e E.S.I. Court (Industrial Tribunal-I),

Hyderabad, thereupon held in their favour in E.I.C.No.7 of 1997. Similarly, the Regional Provident Fund Commissioner, Hyderabad, held that the canteen workers of the petitioner company were entitled to provident fund benefits and the same was confirmed in appeal. Further, as the petitioner company did not treat them as regular employees, they filed W.P.No.24038 of 1998 before this Court. The cause for filing the subject claim petition under Section 33-C (2) of the Act of 1947 was that the petitioner company allegedly stopped paying wages and bonus to them after the E.S.I. Court passed an order in their favour.

M/s. Voltas Employees Co-operative Canteen, the third respondent, filed a counter before the Labour Court stating that the petitioner company had introduced canteen facilities for the benefit of its employees and got registered the society for running the canteen. Free accommodation was provided by the petitioner company along with free water supply, electricity and utensils to run the canteen. The petitioner company also provided a fixed sum every month in addition to the employees' contribution for the maintenance and running of the canteen. The managing committee of the canteen society was elected by the employees of the petitioner company. The third respondent therefore asserted that payment of wages and other benefits to workers of the canteen was interlinked with the financial assistance extended to it by the petitioner company. It claimed that it only acted as an agent between the petitioner company and the canteen workers and in effect, such workers were employees of the petitioner company.

The petitioner company filed a counter before the Labour Court raising various contentions. The first and foremost contention raised by it was as regards the maintainability of the subject claim petition under Section 33-C (2) of the Act of 1947. It contended that proceedings before the Labour Court under this provision were in the nature of execution proceedings only to calculate or compute an existing right to money or benefits based on decided or established entitlement. The petitioner company therefore asserted that there was no scope to investigate and

determine the right of canteen workers to the claimed relief under this provision. It further stated that the proper remedy would be for such workers to seek reference of the dispute under Section 10 of the Act of 1947. The petitioner company also stated that it was under no statutory obligation to run a canteen at the subject location and that the canteen was therefore not its responsibility. It however admitted that a monthly sum was being remitted to the canteen society towards reimbursement but upon an audit objection, the petitioner company decided to terminate the canteen and made alternative arrangements from 07.08.1998 by issuing a circular to all its employees. Vending machines were installed to supply the workers coffee, tea and milk. The petitioner company therefore asserted that the canteen workers were not its employees and that it had nothing to do with them. As regards the orders dated 31.07.1998 passed by the E.S.I. Court in E.I.C.No.7 of 1997, the petitioner company stated that it had filed C.M.A.No.2331 of 1998 against the said order before this Court and obtained conditional interim stay. However, the said appeal was dismissed by this Court on 13.04.2004.

Respondents 1 and 2 examined W.W.1 (Respondent 1) and marked two documents in evidence while the petitioner company examined N.V. Sridhar, its Manager (HRD), as M.W.1 and marked 18 documents in evidence. The Labour Court came to the opinion that there was abundant evidence to prove that the petitioner company was instrumental in the establishment of the canteen and the registration of the society to run it. The Labour Court therefore opined that the managing committee of the canteen society was merely an agent of the petitioner company for running the canteen. Reference was made by the Labour Court to the judgment of the Supreme Court relating to Indian Overseas Bank and its canteen employees. Drawing inspiration therefrom and the observations made by this Court in C.M.A.No.2331 of 1998, the Labour Court ultimately held in favour of respondents 1 and 2. The Labour Court also adverted to the fact that the other four canteen workers who had joined respondents 1 and 2 in filing the subject claim

petition thereafter got their case dismissed as withdrawn as they had settled their dispute with the petitioner company. Each of them was stated to have been paid Rs.80,000/- in full and final settlement of their claims by the petitioner company. M.W.1 admitted that the settlement took place during the course of the enquiry before the Labour Court but the petitioner company had maintained silence as regards this settlement in its written arguments. The learned counsel appearing for the petitioner company contended that this out of Court settlement could not be taken to be an admission or acknowledgement of the status of canteen workers by the petitioner company. However, the Labour Court did not accept this and stated that there was no reason for the petitioner company to give benefit only to some of the petitioners who had knocked on its doors.

As regards the petitioner company's primary objection to the maintainability of the claim petition under Section 33-C (2) of the Act of 1947, the Labour Court observed that merely because the petitioner company had raised an objection, it did not necessarily mean that a dispute existed as to the entitlement of the workmen and held that it was empowered to investigate in this regard. The Labour Court further observed that having given due consideration to the orders passed by various authorities, including this Court, the conclusion was irresistible that the canteen workers were the employees of the petitioner company. It was on this basis that the Labour Court ultimately held that respondents 1 and 2 were, in effect, employees of the petitioner company, which was the principal employer running the canteen through its agent, the third respondent, and accordingly granted them relief.

Sri S. Sriram, learned counsel, contended that the declaration by the authorities concerned had to be limited to the context of those special laws and no general declaration had been given by them as to the status of the canteen workers *vis-à-vis* the petitioner company.

Perusal of the order dated 30.04.2004 passed by this Court in C.M.A.No.2331 of 1998, confirming the order passed by the E.S.I. Court, reflects that the C.M.A was filed by the petitioner company aggrieved by

the dismissal of its appeal in E.I.C.No.7 of 1997 by the E.S.I. Court under order dated 31.07.1998. E.I.C.No.7 of 1997, in turn, was filed by the petitioner company against the proceedings dated 20.12.1996/1-1-1997 of the Recovery Officer-cum-Deputy Director, Employees' State Insurance Corporation, Hyderabad, holding that the petitioner company was the principal employer and was liable to pay contributions on the wages paid to canteen workers, under Section 40 of the Act of 1948. Aggrieved by the direction to pay such contributions, the petitioner company preferred the appeal before the E.S.I. Court and suffered an adverse order. The E.S.I. Court's finding was that the managing committee of the canteen society was the immediate employer of such canteen workers but the petitioner company was the principal employer. Inasmuch as the requirement of Section 2(9)(ii) of the Act of 1948 was satisfied, the petitioner company was held liable by the E.S.I. Court to pay contributions, as directed by the Recovery Officer. In further appeal, this Court observed that the point that fell for consideration before the E.S.I. Court was whether the persons employed in the canteen were employees of the petitioner company within the meaning of Section 2(9)(ii) of the Act of 1948 for the purpose of making contributions on the wages paid to them. It was contended before this Court that no representative of the petitioner company supervised the activities of the canteen and it had no direct control over its functioning. Reference was made to the definition of an 'employee' under Section 2(9)(ii) of the Act of 1948, which reads thus:

'2 (9) 'Employee' means any person employed for wages in or in connection with the work of a factory or establishment to which this Act applies and—

(i)

(ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment.'

This Court took into account the fact that the petitioner company had freely provided the infrastructure required by the canteen and that the canteen facilities were available only to its employees and held that the canteen workers qualified as employees, within the meaning of Section 2(9)(ii) of the Act of 1948. This Court ultimately concluded that though it was true that the workers in the canteen were not employed by the petitioner company, the fact remained that such workers of the canteen were employed by the employees of the petitioner company, over whom it had control, and accordingly affirmed the finding of the E.S.I. Court that the managing committee of the canteen society was the immediate employer of the canteen workers but the petitioner company was the principal employer. The appeal was accordingly dismissed.

Sri S. Sriram, learned counsel, would stress upon the fact that the finding rendered by the E.S.I. Court, which was confirmed in appeal by this Court, was in the context of and within the meaning of Section 2(9)(ii) of the Act of 1948 and asserted that the said finding could not be given general application, whereby the Labour Court could have treated the matter as settled in so far as the employment status of respondents 1 and 2 was concerned.

It is also not in dispute that the petitioner company suffered adverse orders before the authorities under the Act of 1952. The Regional Provident Fund Commissioner, Hyderabad, by order dated 05.12.2014, held that the canteen workers of the petitioner company were entitled to provident fund benefits. Aggrieved thereby, the petitioner company filed an appeal in A.T.A.No.42(1)2001 before the Employees' Provident Fund Appellate Tribunal, New Delhi. By order dated 28.05.2010, the Tribunal dismissed the appeal. The Tribunal found that Section 2(f) of the Act of 1952 defined the word 'employee' to include any person working in connection with the work of the establishment. As canteen workers employed in the petitioner company's canteen fulfilled this requirement, the Tribunal was of the opinion that they were entitled to provident fund benefits.

Sri S. Sriram, learned counsel, urged the same contention that this finding must also be limited to the context of and for the purposes of the Act of 1952 and could not be taken to be a general declaration as to the employment status of the canteen workers.

Sri V. Hari Haran, learned counsel for Respondents 1 and 2, would however contend that the claim petition filed by his clients before the Labour Court was maintainable in law as their entitlement stood settled by virtue of the declarations rendered in their favour by various authorities, including this Court.

Reference was made to case law by both the learned counsel in support of their contentions.

In ***CENTRAL BANK OF INDIA LTD. V/s. P.S.RAJAGOPALAN***^[1], the Supreme Court observed that a claim under Section 33-C (2) of the Act of 1947 may, in some cases, have to be preceded by an enquiry into the existence of the right and such an enquiry must be held to be incidental to the main determination which has been assigned to the Labour Court by sub-section (2) of Section 33-C.

In ***CENTRAL INLAND WATER TRANSPORT CORPORATION LIMITED V/s. THE WORKMEN***^[2], the Supreme Court affirmed the settled proposition that a proceeding under Section 33-C (2) of the Act of 1947 is in the nature of an execution proceeding and the right to the benefit which is sought to be computed must be an existing one, that is to say, already adjudicated upon or provided for. The Supreme Court observed that though it may be necessary, as in an execution proceeding, to determine the identity of the person by whom or against whom the claim is made if there is a challenge on that score, that is merely incidental. When a claim is made before the Labour Court under Section 33-C (2) of the Act of 1947, the Supreme Court observed that the Labour Court must clearly understand the limitations under which it is to function and cannot arrogate to itself the functions of an Industrial

Tribunal which alone is entitled to make adjudications in the nature of determination of the right to relief and the corresponding liability.

In **MUNICIPAL CORPORATION OF DELHI V/s. GANESH RAZAK**^[3], after referring to precedents, the Supreme Court affirmed that where the very basis of the claim or entitlement for the workman to certain benefit is disputed, there being no earlier adjudication or recognition thereof by the employer, the dispute relating to the entitlement is not incidental to the benefit claimed and is, therefore, clearly outside the scope of a proceeding under Section 33-C (2) of the Act of 1947. The Supreme Court observed that the Labour Court would have no jurisdiction to first decide the workman's entitlement and then proceed to compute the benefit so adjudicated on that basis in exercise of its power under Section 33-C (2) of the Act of 1947 and stated that it is only when entitlement has been earlier adjudicated or recognized by the employer and thereafter, for the purpose of implementation or enforcement thereof, some ambiguity requires interpretation, that interpretation is treated as incidental to the Labour Court's power under Section 33-C (2) of the Act of 1947 like that of the Executing Court's power to interpret a decree for the purpose of its execution.

In **ANAND OIL INDUSTRIES V/s. LABOUR COURT, HYDERABAD**^[4], a Full Bench of this Court affirmed that mere denial of the existing right of the workmen to receive the money or benefit does not oust the jurisdiction of the Labour Court to entertain a petition under Section 33-C (2) of the Act of 1947 and require a reference of the industrial dispute under Section 10 of the Act of 1947. The denial of this right would only require the Labour Court to enquire into the fact whether the right exists and it would have the jurisdiction to decide and determine this jurisdictional fact.

The Full Bench Judgment of this Court in **MANDEGAM RADHAKRISHNA REDDY V/s. SRI BHARATHI VELU BUS SERVICE**^[5] is also on the same lines.

The same principle was affirmed by a learned Judge of this Court in ***THE TIRUMALA TIRUPATI DEVASTHANAMS V/s. THE CHAIRMAN-CUM-PRESIDING OFFICER***^[6]. In ***RAMESH WATCH COMPANY V/s. THE ADDL. INDUSTRIAL TRIBUNAL-CUM-ADDL. LABOUR COURT***^[7], a learned Judge of this Court observed that the enquiry under Section 33-C (2) of the Act of 1947 would have to be preceded by an enquiry into the existence of the right and such an enquiry is incidental to the main determination which has been conferred on the Labour Court under that provision. The learned Judge further held that the Labour Court is not precluded from examining the jurisdictional fact as to whether the services of the workman had been terminated by the employer or whether the workman had absconded from duty, as determination of this jurisdictional fact was essential for exercise of, and incidental to, the power conferred on the Labour Court under Section 33-C (2) of the Act of 1947. The learned Judge opined that though proceedings under Section 33-C (2) of the Act of 1947 were akin to execution proceedings, the Labour Court had the incidental power to examine this jurisdictional fact while determining the amount payable to a workman in an application filed under the said provision.

In ***DIVISIONAL SIGNAL AND TELECOMMUNICATION ENGINEER (CONSTN) II, SOUTH CENTRAL RAILWAY V/s. MOHD. JAFFER***^[8], a learned Judge of this Court observed as under:

‘It is well settled that a proceeding under Section 33C(2) of the Act is in the nature of an execution proceeding where the Labour Court calculates the amount of money due to a workman from his employer, or if the workman is entitled to any benefit which is capable of being computed in terms of money, the labour Court proceeds to compute the claim in terms of money. The calculation or computation follows upon an existing right to the money or benefit, in view of its being adjudicated, or otherwise duly provided for. An investigation directed towards the determination of the workman’s right to the relief, and the corresponding liability of the employer, including whether the employer was, at all, liable or not are beyond the scope of an

enquiry under Section 33C(2) of the I.D. Act. When a claim is made before the Labour Court under Section 33C(2) of the I.D. Act, the Labour Court has first to determine whether the workman has any accrued or vested right flowing from an award, settlement or statute and it is only the computation of a benefit, which has already accrued in favour of the workman, which is permissible in proceedings under Section 33C(2) of the I.D. Act. A right to the money, or the benefit which is sought to be executed under Section 33C(2) of the I.D. Act, must be an existing one which has already been adjudicated upon and must arise in the course of, and in relation to, the relationship between the workman and his employer. It is only when the entitlement has been earlier adjudicated or recognized by the employer, and thereafter, for the purpose of implementation thereof some ambiguity requires interpretation that the power of interpretation is treated as incidental to the Labour Court's power under Section 33C(2) of the I.D. Act, like that of the executing Court's power to interpret the decree for the purpose of its execution.'

In **APSRTC, MUSHIRABAD, HYDERABAD V/s.**

HARIKRISHNA^[9], a Division Bench of this Court took note of the fact that the employer, the Andhra Pradesh State Road Transport Corporation, never denied before the Tribunal that it had placed the workman under put-off duty, as claimed by him. As it failed to do so, the petition filed by the workman under Section 33-C (2) of the Act of 1947 claiming wages for the period that he was placed on such put-off duty was held to be maintainable.

In **A.P.STATE TEXTILE DEVELOPMENT CORPORATION LTD. V/s. PRESIDING OFFICER, HON'BLE LABOUR COURT,**

GUNTUR^[10], a Division Bench of this Court considered the observations made in **RAMESH WATCH COMPANY**⁷ and observed that denial of an existing right by the employer does not, by itself, take away the jurisdiction of the Labour Court to entertain a petition under Section 33-C (2) of the Act of 1947. The Bench further observed that while the right itself should be an existing right for enabling a workman to maintain a petition under that provision, it is not necessary that this existing right

should be admitted by the employer. Mere denial of such right would not oust the jurisdiction of the Labour Court to entertain a petition under Section 33-C (2) of the Act of 1947 nor does it bar the Labour Court from enquiring into the fact whether the right is existing. The Bench observed that the Labour Court would have jurisdiction to decide and determine this jurisdictional fact. The enquiry under Section 33-C (2) of the Act of 1947, in such cases, would have to be preceded by an enquiry into the existence of the right and such an enquiry is incidental to the main determination which has been conferred on the Labour Court under Section 33-C (2) of the Act of 1947. The same principle was applied in ***A.P. STATE TEXTILE DEV. CORPN. LTD. V/s. THE PRESIDING OFFICER, LABOUR COURT, GUNTUR***^[11].

As regards ***INDIAN OVERSEAS BANK V/s. I O B STAFF CANTEEN WORKERS UNION***^[12], which was relied upon by the Labour Court in the present case, it is relevant to note that the Supreme Court cautioned therein that no strait jacket formula could be laid down for determining the relationship of master and servant and that the criteria would have to depend upon the circumstances of the individual case. Therefore, the blind application by the Labour Court of the observations made by the Supreme Court in the aforestated judgment would not hold good.

Sri V. Hari Haran, learned counsel, would however contend that the factum of employment of the workers in the canteen being run in the premises of the petitioner company is not in dispute and therefore, there is no jurisdictional fact at all which requires to be established. According to him, the incidental issue of the liability of the petitioner company in this regard was already determined by the other authorities and has also been confirmed by this Court in the appeal arising out of the order of the E.S.I. Court. Therefore, validity of the denial of the rights of such workers by the petitioner company could be enquired into by the Labour Court under Section 33-C (2) of the Act of 1947. He relied on the observations

of the Supreme Court in ***STEEL AUTHORITY OF INDIA LTD. V/s. NATIONAL UNION WATER FRONT WORKERS***^[13] and more particularly, para 105 thereof. Therein, the Supreme Court summed up that the cases discussed would fall into three categories—(1) where contract labour is engaged in or in connection with the work of an establishment and employment of contract labour is prohibited, (2) where the contract is found to be sham and nominal, rather a camouflage, in which case the contract labour working in the establishment of the principal employer would, in fact and in reality, be the employees of the principal employer himself, and (3) where in discharge of a statutory obligation of maintaining a canteen in an establishment, the principal employer availed the services of a contractor and the contract labour would indeed be the employees of the principal employer. However, it is the admitted position in the present case that there was no statutory obligation on the petitioner company to maintain a canteen. Further, there was also no prohibition of contract labour in the petitioner company. The above judgment and the observations made therein are therefore irrelevant for the purpose of this case.

Sri S. Sriram, learned counsel, also informed this Court that a reference has been made under Section 10(1) of the Act of 1947 to the Industrial Tribunal-I, Hyderabad, in I.D.No.1 of 2008, as to whether the action of the petitioner company was justified in denying respondents 1 and 2 herein the following demands - (1) issue of appointment letters, (2) payment of difference of minimum wages and (3) regularisation of services. In the light of this reference, W.P.No.24038 of 1998 filed by respondents 1 and 2 for regularisation of their services was also closed.

The claim petition filed by respondents 1 and 2 before the Labour Court was for payment of wages and bonus. The jurisdictional issue before the Labour Court was therefore to first see whether respondents 1 and 2 were workmen employed by the petitioner company, whereby the liability to pay their wages would rest upon it, and secondly, whether the nature of their employment was such whereby they could claim bonus.

As rightly pointed out by Sri S. Sriram, learned counsel, the finding of this Court in C.M.A.No.2331 of 1998 was in the context of Section 2(9) (ii) of the Act of 1948 alone. Similarly, the findings of the authorities under the Act of 1952 were in relation to the definition of 'employee' under Section 2(f) of that Act. These qualified definitions relevant to those special enactments in which they find mention cannot be taken to be a general declaration of a master-servant relationship between the petitioner company and respondents 1 and 2. Had that been so, there would have been no necessity for a reference to be made under Section 10(1) of the Act of 1947 with regard to the named three issues, which centre around their status *vis-à-vis* the petitioner company.

As regards the settlement effected by the petitioner company with the four workmen who originally joined respondents 1 and 2 in the claim petition filed under Section 33-C (2) of the Act of 1947, the memorandum of settlement dated 10.06.2001 executed in this regard is placed on record. Perusal thereof reflects that the Voltas Employees Union negotiated with the management of the petitioner company and the canteen society employees for reaching an understanding. As a result thereof, the management of the petitioner company decided to come out of legal complexities and pay certain compensation in lieu of various claims/cases/disputes raised by certain canteen workers. Thereupon, the terms and conditions of the settlement were reduced to writing, whereby the petitioner company was to pay an amount of Rs.80,000/- to each of the workers named therein in full satisfaction/settlement of their claims such as retrenchment, gratuity, provident fund and other benefits, purely to avoid legal complexities/time burden even though the petitioner company was not legally or otherwise bound to pay, as it was neither the employer of the said workmen nor the promoter of the society and as the said workmen were actually engaged, compensated, supervised and controlled by the managing committee of the canteen society.

It is therefore clear that there was no admission by the petitioner company to the effect that it owned up any responsibility or liability for the

canteen workers as their employer and on the other hand, the petitioner company effected the settlement only for the purpose of avoiding legal complexities and saving time though it was not their employer. Significantly, the amount of settlement thereunder was Rs.80,000/- per worker which is far higher than the claims for wages and bonus put forth before the Labour Court under the subject petition. This settlement therefore cannot be taken to be an admission by the petitioner company of being the employer of the canteen workers, whereby respondents 1 and 2 could be granted benefit on par with those with whom the petitioner company had settled, as opined by the Labour Court.

Admittedly, there was no statutory obligation on the part of the petitioner company to run a canteen. The finding of the Labour Court itself was that they were not employed by the petitioner company. There could be no implied relationship of master and servant between them for all purposes merely because of the adjudication by the authorities in relation to special enactments. Therefore, there was no established right made out before the Labour Court whereby it could have accepted the claim of respondents 1 and 2 for wages and bonus treating the petitioner company as their employer. The Labour Court had no jurisdiction to adjudicate upon their basic entitlement in this regard in exercise of powers under Section 33-C (2) of the Act of 1947. The order dated 06.12.2004 passed by the Labour Court in M.P.No.39 of 1999 is therefore without jurisdiction and is accordingly set aside.

The writ petition is allowed. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

29th OCTOBER, 2015

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[\[1\]](#) AIR 1964 SC 743

- [\[2\]](#) (1974) 4 SCC 696
- [\[3\]](#) (1995) 1 SCC 235
- [\[4\]](#) AIR 1979 AP 182
- [\[5\]](#) 1985(2) ALT 310
- [\[6\]](#) 2004(5) ALD 16
- [\[7\]](#) 2005(5) ALD 467
- [\[8\]](#) 2008(4) ALD 598
- [\[9\]](#) 2012(1) ALT 155
- [\[10\]](#) 2012(6) ALD 510
- [\[11\]](#) 2012(5) ALT 470
- [\[12\]](#) 2000 Law Suit (SC) 722
- [\[13\]](#) AIR 2001 SC 3527