

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 20th March, 2015
Date of Decision: 13th May, 2015

+ W.P.(C) 4967/2014

BATLIVALA & KARANI

..... Petitioner

Through: Mr. Inderjit Singh with Mr. Om
Prakash, Advocates.

versus

DEPUTY LABOUR COMMISSIONER AND ANR.Respondents

Through: Mr. Asit Kumar Roy, Advocate.

CORAM:

HON'BLE MR. JUSTICE VED PRAKASH VAISH

JUDGMENT

1. By way of present petition the petitioner seeks setting aside/quashing of the order No.DLC/NDD/13/535 dated 10.04.2013 issued by respondent No. 1, the Dy. Labour Commissioner directing the District Collector to recover an amount to the tune of Rs.2,36,939/- (Two lacs thirty six thousand nine hundred and thirty nine) along with interest @12% per annum w.e.f. 11.10.2000 from the petitioner by way of demand draft in the name of respondent No.2. It is also prayed that respondent No. 1 be restrained from releasing the amount so recovered pursuant to the said order in favour of respondent No.2.

2. Briefly stating the facts of the case as emerging from the petition are that the petitioner is a partnership firm dealing in stock and securities and had an office at Janpath, New Delhi. Shri Shitla Prasad

Shukla, respondent No. 2 was appointed as a Peon on 01.01.1983 by the management of M/s. Das & Company. On 01.10.1996 he was transferred to the petitioner firm as a FOREX dealer. The petitioner firm closed down its office at Janpath, New Delhi during October/ November, 1999. As a result of this, the services of respondent No. 2 were terminated in terms of his appointment letter. Thereafter, respondent No. 2 raised an industrial dispute challenging his termination and the same was referred by the appropriate government under the following terms of reference:-

“Whether the services of Sh. Shitla Prasad Shukla have been terminated illegally and/or unjustifiably by the management and if so, to what relief is, he entitled and what directions are necessary in this respect?”

3. The Labour Court answered the reference in favour of respondent No. 2 and vide its award dated 30.01.2006, directed the management to pay a compensation of Rs. 3 Lacs (three lacs) to respondent No. 2 apart from his legal dues to which he was entitled as per law.

4. Against the said award, the petitioner preferred a W.P. (C) No.18288/2006 before this court which was dismissed along with W.P (C) No.18211/2006 preferred by respondent No. 2 in connected matter vide common order dated 11.03.2011 with the following directions:-

“15. Thus while dismissing the petitions, the Registry is directed to forthwith release the amounts deposited in each of the petitions in favour of the respondent workmen and the petitioner employer is directed to pay the balance award amount in each case to the respondent workmen together with interest at 8% per annum on the

balance award amount from 8th December, 2006 i.e., the date of the interim order till the date of payment, within four weeks from today. If the same is not paid, besides other remedies of the respondent workmen, the same shall after four weeks incur interest at the rate of 12% per annum. Litigation expenses of Rs. 10,000/- in each case having already been paid to the respondent workmen, no order as to further costs.”

5. In compliance with the award dated 30.01.2006 and the order of this court dated 11.03.2011 in the aforementioned writ/s, the petitioner company calculated the legal dues of the workman respondent as (Annexure P6 of the present petition):-

a)	<i>Gratuity for 7 years</i>	<i>Rs.98,077.00</i>
b)	<i>Notice pay equal to 2 months salary</i>	<i>Rs.20,000.00</i>
c)	<i>Leave Encashment</i>	<i>Rs.27,300.00</i>
d)	<i>Bonus for 1998</i>	<i>Rs.24,000.00</i>
e)	<i>Bonus for 1999-00 upto October, 1999</i>	<i>Rs.14,000.00</i>
f)	<i>Interest as per High Court Orders</i>	<i>Rs.51,781.00</i>

The amount paid to the workman/ respondent by the petitioner is as under: -

a)	<i>Other dues paid by cheque No.822708 on 05.04.2007</i>	<i>Rs.1,83,410.00</i>
b)	<i>Released by DHC</i>	<i>Rs.1,50,000.00</i>
c)	<i>Paid on 1.4.2011 by cheque</i>	<i>Rs.2,01,748.00</i>

	<i>No.912030 on Citi Bank</i>	
	<i>Total</i>	<i>Rs.5,35,158.00</i>

6. The dues, as calculated by the petitioner were duly paid by the management to respondent No. 2. On 06.03.2012 the petitioner received a notice from respondent No.1 for appearance before him which was duly complied with. On that day, the authorized representative of the petitioner was handed over a copy of an earlier order/purported decree passed by respondent No.1 on 09.02.2010 for making submissions/ objections. The petitioner made its submissions to the said order and numerous meetings were held by the officers of respondent No.1 and the petitioner and finally the matter was reserved for orders. However, no orders were received by the petitioner nor any notice/ demand for making any further payments to respondent No.2 was received by the petitioner.

7. On 07.02.2014, the petitioner received a notice dated 06.02.2014 from the Collector, Govt. Dues Recovery Section, Fort, Mumbai (herein after referred to as the Collector) demanding a payment of Rs.2,36,939/- (Two lacs thirty six thousand nine hundred and thirty nine) within 20 days from the date of service of the said notice and threatening compulsory proceedings in case of non-compliance of the demand. The petitioner replied to the said notice on 14.02.2014 through its counsel stating that it was impossible to understand the demand raised as it was not clear to which account the same relates to. The collector was accordingly requested to supply relevant details and documents. When no reply or documents, as requested, were received

by the petitioner, petitioner deputed one of its officers to the collector wherein it was learnt that the demand of payment relates to respondent No.2 and had emanated from respondent No.1. The officer of the petitioner company met respondent No.1 and handed over the notice requesting for the supply of various relevant orders passed by respondent No.1 for the recovery of the said amount, clarification about whether, when and at what address the said order was sent to petitioner, confirmation whether the said order was ever served on the petitioner and restraining collector from taking any action for the time being. Though no documents were supplied by the respondent No.1, representatives of the petitioner were asked to file a statement showing payments made to respondent No.2. On 18.06.2014, the requisition/direction given by respondent No.1 was complied with. The petitioner also made a payment of demand to avoid sealing of the office on 23.06.2014. The collector issued receipt dated 25.06.2014 acknowledging the payment of the said amount. Under such circumstances, the petitioner has preferred the present petition.

8. Learned counsel for the petitioner contended that the additional payments claimed by respondent No.2 towards increment, higher gratuity, bonus, incentives, etc. were not determined and quantified by the learned Labour Court. In fact, in the award dated 30.01.2006, the Labour court merely directed that respondent No.2/ workman would be entitled to other “legal dues” apart from a compensation of Rs.3 lacs awarded therein. The legal dues so ordered by the Labour Court by the said award were, thus, calculated by the management and were paid way back in the year 2007 to the workman.

9. It was further contended on behalf of the petitioner that the claim for gratuity and bonus is not maintainable under Section 33C (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the ID Act). The Labour Court had no jurisdiction to calculate or recover the said gratuity or bonus amounts under the provisions of Section 33C (2) of the ID Act. There was a dispute between the petitioner and respondent No. 2 regarding the validity and legality of the additional sums as claimed by respondent No. 2 and therefore the claim of respondent No. 2 for the additional payments was way beyond the scope of Section 33C (2) of the ID Act. The respondent No. 1 has no jurisdiction to arrogate to itself the power to adjudicate upon the claims which were disputed and were not based on any pre entitlement or pre determined rights of the workman.

10. It was lastly contended by learned counsel for the petitioner that the impugned order dated 10.04.2014 as passed by respondent No. 1 is not a speaking order as it does not disclose how the sum of Rs.2,36,939/- (Two lacs thirty six thousand nine hundred and thirty nine) was arrived at. Further, a copy of the said order was never supplied to the petitioner though respondent No. 1 was legally obliged to do so. Also, the petitioner was never heard by the respondent No. 1 personally. In fact the entire proceedings were conducted by a Junior Officer like Labour Officer and the Inspecting Officer.

11. *Per contra* learned counsel for the respondent No. 2 contended that the respondent No. 1 calculated the legal dues unpaid to the workman/respondent No. 2. The petitioner had participated during the proceedings before respondent No. 1 and had contested the claims of

the workman. The order dated 16.11.2009 directing the petitioner to pay a sum of Rs.2,36,939/- (Two lacs thirty six thousand nine hundred and thirty nine) to the workman was passed only after hearing both the parties. The petitioner never challenged the said order and has only impugned the letter dated 10.04.2013 in the present petition which is in a nature of a recovery certificate.

12. Learned counsel for respondent No.1 submitted that during the pendency of the W.P. (C) No. 18211/2006 (W.P.(C) No. 18288/2006) as preferred by the petitioner, respondent No. 2 had approached it vide application dated 22.07.2008 inadvertently mentioning Section 33C (2) of the ID Act. In the said proceedings, the amount which the workman would have been entitled to was calculated to the tune of Rs.2,36,939/- (Two lacs thirty six thousand nine hundred and thirty nine) on 16.11.2009 taking into account the annual increment @ 10% and a recovery certificate dated 28.01.2010 was issued against the petitioner. After the dismissal of the petitioner's writ, the workman approached respondent No. 1 vide his application dated 19.11.2011 seeking direction for recovery of Rs.8,24,202.15 as per the calculations prepared by respondent No.2 including interest @12% per annum since 11.10.2000, i.e., the date of filing till 10.10.2011. Pursuant to said application the impugned recovery certificate dated 10.04.2013 was issued.

13. I have given my thoughtful consideration to the submissions made by learned counsels for the parties and have also perused the material on record.

14. At the outset it would be pertinent to reproduce relevant portions of Section 33C of the ID Act which is material to the case before this court. Relevant parts of Section 33C of the ID Act reads as under:-

“33C. Recovery of money due from an employer.- (1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA or Chapter VB, the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government; within a period not exceeding three months

Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he

may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.”

15. The legislative history for enactment of Section 33C (1) and 33C (2) of the ID Act shows that the I.D. Act, as it was originally passed, made only provisions for adjudication of industrial disputes. If an individual employee did not seek to raise an industrial dispute but desired only to implement or to enforce his existing rights, it should not be necessary for him to take recourse to the remedy prescribed by Section 10 (1) of the Act. But, then there was no other remedy available under the Act. The Act was criticised for omitting to make provisions for speedy enforcement of the existing rights of the individual workmen. To meet this criticism, Section 20 of the Industrial Disputes (Appellate Tribunal) Act, 1950 (roughly corresponding to Section 33C (2) of the I.D. Act) was inserted in 1950. In 1956, the Industrial Disputes (Appellate Tribunal) Act (48 of 1950) was repealed and Section 33C (1), 33C (2) and 33C (3) providing for recovery of amounts, were inserted under the ID Act. Thus, by inserting Section 33C, Parliament achieved its object of providing speedy relief to workmen when they sought to enforce their existing individual right without having to take recourse under Section 10(1) of the I.D. Act, or without having to depend upon their union to espouse their cause.

16. Section 33C (1) of the ID Act provides that where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter V-A or V-B the workman may without prejudice to any other mode of recovery make an application to the

appropriate Government for the recovery of the money due to him and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue. Section 33C (2) of the ID Act provides that where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed then the question may, subject to any rules that may be made under the Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government within a period not exceeding 3 months.

17. It is now a settled law that the scope of Section 33 C (2) of the ID Act is wider than that of Section 33 C (1) of the said Act. While the claims under the former Section are based on ‘entitlement’ of the workman, the claims that form the subject matter of consideration in the latter Section are the ones that arise out of a settlement or an award or under the provisions of Chapter VA or Chapter VB of the ID Act. The Hon’ble Supreme Court in ‘**Central Bank of India Ltd. and others vs. Rajagopalan (PS) and others**’, 1963 (2) LLJ 89 held that scope of Section 33C (2) is wider than that of Section 33C (1) of the ID Act. It was held:

“We have already noticed that in enacting S. 33C the legislature has deliberately omitted some words which occurred in S. 20(2) of the Industrial Disputes (Appellate Tribunal) Act, 1950. It is remarkable that similar words of limitation have been used in S. 33C (1) because S. 33C (1) deals with cases where any money is due under a

settlement or an award or under the provisions of Chapter VA. It is thus clear that claims made under S.33C (1), by itself, can be only claims referable to the settlement, award, or the relevant provisions of Chapter VA. These words of limitations are not to be found in S. 33C (2) and to that extent, the scope of S. 33C (2) is undoubtedly wider than that of S.33C (1). It is true that even in respect of the larger class of cases which fall under S.33C (2), after the determination is made by the Labour Court the execution goes back again to S. 33C (1). That is why S. 33C (2) expressly provides that the amount so determined may be recovered as provided for in sub-section (1). It is unnecessary in the present appeals either to state exhaustively or even to indicate broadly what other categories of claims can fall under S. 33C(2). There is no doubt that the three categories of claims mentioned in S. 33C (1) fall under S. 38C(2) and in that sense, S.33C(2) can itself be deemed to be a kind of execution proceeding; but it is possible that claims not based on settlements, awards or made under the provisions of Chapter VA, may also be competent under S. 33C (2) and that may illustrate its wider scope. We would, however, like to indicate some of the claims which would not fall under S. 33C (2), because they formed the subject matter of the appeals which have been grouped together for our decision along with the appeals with which we are dealing at present. If an employee is dismissed or demoted and it is his case that the dismissal or demotion is wrongful, it would not be open to him to make a claim for the recovery of his salary or wages under S. 33C (2). His demotion or dismissal may give rise to an industrial dispute which may be appropriately tried, but once it is shown that the employer has dismissed or demoted him, a claim that the dismissal or demotion is unlawful and, therefore, the employee continues to be the workman of the employer and is entitled to the benefits due to him under a pre-existing contract, cannot be made under S. 33C (1). If a settlement has been duly reached between the employer and his employees and it falls under S. 18(2) or (3) of

the Act and is governed by S. 19(2), it would not be open to an employee, notwithstanding the said settlement, to claim the benefit as though the said settlement had come to an end. If the settlement exists and continues to be operative, no claim can be made under S. 33C (2) inconsistent with the said settlement. If the settlement is intended to be terminated, proper steps may have to be taken in that behalf and a dispute that may arise thereafter may have to be dealt with according to the other procedure prescribed by the act. Thus, our conclusion is that the scope of S. 33C (2) is wider than S. 33C (1) and cannot be wholly assimilated with it, though for obvious reasons, we do not propose to decide or indicate what additional cases would fall under S. 33C (2) which may not fall under S. 33C (1). In this connection, we may incidentally state that the observations made by this Court in the case of Punjab National Bank Ltd. (1962) 1 LLJ 234 (vide supra), that S. 33C is a provision in the nature of execution, should not be interpreted to mean that the scope of S. 33C (2) is exactly the same as S. 33C (1).”

18. It is also settled that the scope of both these Sections is limited to the extent that the proceedings under these Sections is in a nature of an execution proceeding. The authority concerned cannot under the garb of these Sections arrogate to itself the disputes which would rightly fall in the domain of Section 10 of the ID Act. The proceedings under these Sections are in the nature of execution proceedings providing for an additional mode of speedy recovery of money due to the workman from the employer. The scope of Section 33C (1) of the ID Act was discussed by this court in ‘**Weston Electronics Ltd. vs. Union of India and Ors.**’, (1997) 1 LLJ 1230 Del. wherein it was observed:-

“From the aforesaid discussion, we conclude that the proceedings under Section 33C (1) are in the nature of execution proceedings providing an additional mode of speedy recovery of money due to a workman from an employer under a settlement or an award of the provisions of Chapter V-A or Chapter V-B. Section 33C (1) does not vest any power of adjudication on the appropriate government except to the limited extent of examining the facts to find out whether objections to jurisdiction of the appropriate government has been taken by the employer simply with a view to oust the jurisdiction of the appropriate government under the said Section and deprive the workman of money due to him. On the interpretation of Section 33C (1) of the Act and scope of power of the appropriate government under this Section, we summarise our conclusions as follows:-

- (i) Proceedings under Section 33C (1) of the Act are in the nature of execution proceedings.
- (ii) The appropriate government has not been invested with powers of a Labour Court or Industrial Tribunal to hold a formal enquiry.
- (iii) In case the management raises bona fide dispute/s on the right of a workman to claim of money due under a settlement or an award or under the provisions of Chapter V-A or V-B, the appropriate government has no right of adjudication of such dispute/s.
- (iv) In case of bonafide dispute about the right of a work man of the money claimed as due from the management, the workman will have to raise an industrial dispute for reference being made for adjudication by the Labour Court/Industrial Tribunal.

- (v) The appropriate government has, however, a limited right of examining the objection of the management to the claim of the workman, only to form a prima facie opinion whether the objection of the management is perverse, frivolous or malafide taken with a view to deprive the workman of the money due to him.
- (vi) The appropriate government is required to afford a reasonable opportunity complying with the principles of natural justice to the management and the workman before taking a decision under Section 33C (1) and is also required to make a speaking order giving reasons to that the aggrieved party-management or workman may seek judicial review of the decision of the appropriate government in accordance with law.”

19. Now reverting to the facts of the present case, the industrial dispute between the petitioner and the workman respondent No. 2 resulted in the passing of the award on 30.01.2006. The petitioner preferred a writ against the said award before this court bearing W.P. (C) No. 18288/2006. At this stage it would also be pertinent to mention certain facts which are not clear from the petition, however can be established from the reply of respondent No. 2. In the month of October, 2006 the workman moved an application under Section 33C (2) of the ID Act before the Labour Court No. VI, Delhi for directions to the employer to settle the dispute/uncalculated amount of legal dues as per the award. However, the same was dismissed as withdrawn for the lack of jurisdiction with a liberty to respondent No. 2 to approach the right forum for its claims. On 08.12.2006, the petitioner obtained

the order of stay to the execution of the award by this court to the writ preferred by it. The respondent workman on 22.07.2008 filed an application before respondent No. 1 for calculation of legal dues unpaid by the employer. The same was filed inadvertently under Section 33C (2) of the ID Act and was got corrected on an application under Section 33C (1) thereof by respondent No. 1. The said application was decided and the order on it was passed on 16.11.2009 making the petitioner liable to pay a sum of Rs.2,36,939/- (Two lacs thirty six thousand nine hundred and thirty nine) and respondent No. 1 issued a recovery certificate to the District Collector on 09.02.2010. The petitioner, in turn, once again obtained a stay to the execution of the said recovery certificate by this court in the writ petition preferred by it on 26.04.2010. The writ petition of the petitioner was dismissed on 11.03.2011 in the terms aforementioned. The petitioner in the said writ also tried to challenge the application as preferred by the respondent No. 2. However, the said challenge was not rejected by this court in the following terms:-

“11. During the course of hearing, it has also transpired that after the filing of the present petitions, disputes arose between the parties also as to the other emoluments besides the compensation to which the respondent workmen were entitled to. The respondent workmen filed applications before the Labour Court for computation of the amounts due to them and the said applications were contested by the petitioner employer and order thereon made by the Labour Court finding the amounts besides the payment made by the petitioner employer to be due to the respondent workmen. The respondent workmen thereafter attempted to recover the amounts so found due. The petitioner employer filed applications in these proceedings to restrain the

respondent workmen from doing so. On the said applications, on 26th April, 2010, the counsel for the respondent workmen made a statement that no action till the next date of hearing shall be taken for realization of the said excess amount. The said statement has continued till now. The counsel for the petitioner employer has sought adjudication in these petitions on that aspect also.

12. The counsel for the petitioner employer however admits that the said disputes are not subject matter of the present writ petitions. It has been enquired from the counsel for the petitioner employer whether the petitioner employer has challenged the said computation. The answer is in the negative. Without substantive challenge being made, merely because application for interim relief has been filed would not entitle the petitioner employer to make the said challenge in the present writ petitions. Now that the writ petitions are being disposed of, the question of considering any application for interim relief does not arise.”

20. Thereafter, another recovery certificate was issued by respondent No. 1 to the District Collector on 10.04.2013 which is impugned in the present petition. It is also worth mentioning here that the petitioner has not challenged the order dated 16.11.2009 being the actual order of computation on the application preferred by respondent No. 2 before respondent No. 1 and has only challenged the recovery certificate issued pursuant to it dated 10.04.2013. As can be seen from above, even in the W.P. (C) No. 18288/2006 the petitioner has admitted before this court that it has not challenged the computation as made by respondent No. 1.

21. Be as it may, it is primarily contented by the petitioner that the respondent No. 1 had passed the order (sic. Recovery certificate) dated

10.04.2013 by deciding on the claims disputed by the petitioner. This contention does not find favor with this court. By the award dated 30.01.2006, the petitioner was directed to pay the respondent No. 2 their legal dues besides a compensation of Rs. 3 Lac. As per its own calculation the petitioner has determined a liability of Rs. 98,077/- as gratuity for 7 years, Rs. 20,000/- as notice pay equal to two months salary, Rs. 27,300/- as leave encashment, Rs. 24,000/- as bonus for 1998 @ 20% and Rs. 14,000/- as bonus for 1999-00 up to October, 1999 towards respondent No.2 which along with the interest calculated as per order of this court was duly paid to respondent No.2.

22. A perusal of the order dated 16.11.2009 shows that respondent No.1 has made computation on various accounts to reach to a sum of Rs.2,36,939/- (Two lacs thirty six thousand nine hundred and thirty nine). Relevant extract of the said order reads as under: -

“From the perusal on record it is admitted fact that management did not pay increment on salary for the period of last 3 years prior to the date of termination. As per laws workman is entitled for increment as per rule of the management. In this case workman is entitled for 10% of increment per annum. The workman was receiving salary of Rs.13000/- per month and increment at the rate of 10% per annum was due from April, 1997 to Oct. 1999, which is amounting to Rs.76,920/- payable by the management. Rest of the termination benefit and legal dues will be calculated on the basis of last salary of the workman i.e. Rs.13,310/- per month.

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(2) The gratuity claimed by the workman is Rs.1,30,540/- but it calculated @ Rs.13,310/- comes to Rs.1,30,540/- wherein the management has paid Rs.98,077/- thus a short payment of Rs.32,463/- (3) The

notice pay for two months salary for November, December, 1999 as per terms and condition stated in appointment letter and claimed by workman comes to Rs.26,620/- whereas the Management has paid Rs.20,000/- thus the management has made short payment of Rs.6,620/- (4) The privilege leave encashment upto October 1999 claimed by the workman is Rs.38,906/- which in actual is Rs.38,906/- whereas the management has paid Rs.27,333/- thus has made a short payment of Rs.11,573/-. (5) the bonus claimed by the workman for the year 1998-99 and 1999-2000 @ 20% for 19 months is Rs.50,578/- which in actual comes to Rs.50,578/- whereas the management has made a payment of Rs.38,400/- which is short payment by Rs.12,578/-. (6) Incentive claimed by the workman for the period from December, 1998 to March, 1999 on the brokerage is Rs.50,000/- which is not considered and is not to be calculated. (7) The retrenchment benefit claimed by the workman is Rs.1,13,135/- which is actual comes to Rs.1,13,135/-. The management has not paid difference amount towards legal dues. So the management has not paid difference amount towards legal dues. So the management has to pay Rs.2,36,939/- towards legal dues which is actual difference of legal due, approved. Recovery Certificate may be issued.”

(emphasis supplied)

23. It will be seen from above that respondent No. 1 has only made computation under the various heads under which the petitioner have themselves agreed to pay along with increment as per the rules of management and retrenchment benefits covered under Chapter VA/B of the ID Act. As is observed in the light of the decision of this court in ‘**Weston Electronics Ltd. vs. Union of India and Ors.**’,(supra) that the competent authority under Section 33 C (1) of the ID Act can determine the claims based on the settlement, award or in terms of

Chapter VA or Chapter VB of the ID Act. It cannot decide on claims which are disputed by the parties as the proceedings under Section 33C (1) of the Act are in the nature of execution proceedings.

24. Clearly, in the present case also respondent No.1 has only determined the exact entitlement of respondent No. 2 and not decided on the disputed question of facts. Further, a perusal of various order sheets dated 25.02.2009 to 16.11.2009 of the proceedings before respondent No. 1 annexed with the additional documents as filed by respondent No. 2 show that the petitioner was constantly present during the proceedings and his contention of unawareness of the order does not find favour with this court. Conclusively, respondent No. 1 has not transgressed its powers under Section 33C (1) of the ID Act and no infirmity can be attributed to the order dated 16.11.2009 and consequently the recovery certificate dated 10.04.2013.

25. In the light of the above discussion the present petition deserves to be dismissed and same is hereby dismissed. The amount deposited by the petitioner with respondent No. 1 be released to respondent No.2 workman Shri Shitla Prasad Shukla.

C.M. Appl. No.9936/2014

The application is dismissed as infructuous.

**(VED PRAKASH VAISH)
JUDGE**

MAY 13th, 2015
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