

LPA-1701-2018 (O&M) and other connected matters

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1701-2018 (O&M)
Date of decision:- 11.12.2018

Jal Ram

...Appellant

Versus

The Presiding Officer, Labour Court-1, Faridabad and another

...Respondents

LPA-1728-2018 (O&M)

Jaikrit Lal

...Appellant

Versus

The Presiding Officer, Labour Court-1, Faridabad and another

...Respondents

LPA-1729-2018 (O&M)

D.L. Karan

...Appellant

Versus

The Presiding Officer, Labour Court-1, Faridabad and another

...Respondents

LPA-1730-2018 (O&M)

Avdesh Goswami

...Appellant

Versus

The Presiding Officer, Labour Court-1, Faridabad and another

...Respondents

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LPA-1731-2018 (O&M)

Ravinder Kumar

...Appellant

Versus

The Presiding Officer, Labour Court-1, Faridabad and another

...Respondents

LPA-1733-2018 (O&M)

Abhay Nath

...Appellant

Versus

The Presiding Officer, Labour Court-1, Faridabad and another

...Respondents

LPA-1734-2018 (O&M)

Surinder Singh

...Appellant

Versus

The Presiding Officer, Labour Court-1, Faridabad and another

...Respondents

LPA-1735-2018 (O&M)

Om Parkash

...Appellant

Versus

The Presiding Officer, Labour Court-1, Faridabad and another

...Respondents

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LPA-1762-2018 (O&M)

Jag Pal

...Appellant

Versus

The Presiding Officer, Labour Court-1, Faridabad and another

...Respondents

CORAM: **HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE**
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Ms. Abha Rathore, Advocate,
 for the appellants.

 Mr. P.S. Jammu, Advocate,
 Mr. Michael Dias, Advocate,
 Mr. Siddharth Dias, Advocate,
 for respondent No. 2.

These are intra-court appeals, under Clause X of the Letters Patent, against an order and judgment, dated 17.10.2018, rendered by the learned Single Judge, vide which the writ petitions preferred by the appellants-workmen against an order dated 14.11.2017, passed by the Labour Court, declining amendment in their claim applications under Section 33-C(2) of the Industrial Disputes Act, 1947 ('The Act' for short), have since been dismissed.

For the issue involved in these appeals is common, these are

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being disposed of by a common judgment.

The facts that are required to be noticed are limited.

Parties to the lis had entered into a settlement, while a ***Special Leave Petition No(s). 10244/2014 (M/s K.G. Khosla Compressors Ltd. Vs. Awdesh Goswami and others)***, filed by the respondent-management, was pending before the Supreme Court. In terms of the said settlement, the respondent-management was required to pay back wages to the appellants-workmen w.e.f. 03.12.1991 to 14.10.2009 at the rate of 50% and full back wages from 14.10.2009 till the date of their respective superannuation. And, the appellants-workmen were also required to be paid their retiral benefits, in accordance with law.

Learned counsel for the parties are ad idem that pursuant to the order of the Supreme Court, referred to above, a substantial amount had since been disbursed to the appellants-workmen. Thus, the grievance of the appellants-workmen was for their full and final dues as regards back wages and/or retiral benefits were not released, accordingly, they moved the Labour Court under Section 33-C (2) of the Act. And, since the respondent-management disputes the claim of the appellants-workmen, accordingly the proceedings are pending before the Labour Court. But, as indicated above, the matter at hands arises out of the application(s) moved by the appellants-workmen seeking amendment in their claims, for even though the allowances, such as VDA, HRA, DA, Conveyance Allowance, City Allowance and Children Allowance, formed part of the wages, but they omitted to calculate and claim the same in their original applications under Section 33-C(2) of the Act. The respondent-management opposed the amendment prayed for and sought dismissal of the amendment applications.

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Upon consideration of the matter, the Labour Court, vide its order dated 14.11.2017, declined the proposed amendment, for it was of the view that amount as regards certain allowances sought to be claimed by way of amendment already formed part of their original claims. And even though, while considering the application for amendment, the Court was/is not required to go into the merits of the amendment, but it was not completely debarred from examining the basis of the proposed amendment. Further, in the event the amendment was granted, the claim of the appellant-workman would swell up to Rs.82,52,350/-, whereas in the original application, he had confined his claim up to Rs.26,82,759/- only. Aggrieved by the said order, the appellants-workmen approached this Court vide writ petitions referred to above, which have since been dismissed. Thus, these appeals.

After we had heard the matter at some length, learned counsel for the respective parties before us reached a consensus: that let the amendment prayed for be granted, but the questions/issues, as to whether the amount/allowances that are sought to be claimed by way of amendment already formed part of their original claim, as set out in their applications under Section 33-C(2) of the Act or not, and whether the appellants-workmen are at all entitled thereto in law, be kept open to be examined by the Labour Court at an appropriate stage.

In the wake of the above, we set aside the order and judgment, dated 17.10.2018, rendered by the learned Single Judge, as also the order passed by the Labour Court, dated 14.11.2017, declining the amendment. Accordingly, the applications moved by the appellants-workmen, seeking amendment in their respective claims under Section 33-C(2) of the Act, are accepted and the amendment prayed for is granted. The Labour Court shall

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grant due opportunity to the respondent-management to file reply to the amended claim, whereafter it shall proceed to determine the dispute. It is made clear that the questions/issues; whether the amount/allowances that are sought to be claimed by way of amendment, indeed, formed part of the original claim set out by the appellants-workmen under Section 33-C(2) of the Act or not, and whether they are even entitled thereto in law, shall be examined and adjudicated by the Labour Court in the wake of the evidence that shall be led by the parties at an appropriate stage of the proceedings.

The appeals are accordingly disposed of, in the above terms.

Parties through their respective counsel shall appear before the Labour Court on 11.01.2019 or on the date already fixed, whichever is earlier.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

11.12.2018
Amodh/AK SHARMA

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No