NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (L) NO.120 OF 2019

General Manager S.E.C.L. Baikunthpur Area, District Korea, Chhattisgarh.

…Petitioner(s)

Versus

Surendranath Singh S/o R.S. Singh, aged about 56 Years R/o Baikunthpur, Thana and Tahsil Baikunthpur, District- Korea, Chhattisgarh.

… Respondent(s)

For Petitioner	:	Shri Vinod Deshmukh, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15.05.2019

1. Challenge in the present writ petition is the award dated 17.05.2018 passed by the Labour Court, Manendragarh, District Korea in Case No.19/ID Act/2015. Vide the said award, the Labour Court has in a proceedings under Section 33C(2) of the Industrial Disputes Act, 1947 (in short, the ID Act) has passed an award granting payment of Rs.34,500/- towards Performance Linked Reward (in short, PLR) and Bonus for the financial year, 2012-13.

2. The main contention of the petitioner is that, the dispute so raised by the employee is not one which could have been entertained under the provisions of Section 33C(2) of the ID Act. According to the petitioner, the remedy which the employee had was, one which could have been only by way of a Reference routed through the State Govt. for adjudication of the entitlement part is concerned. The disputed facts and the disputed issues could not have been decided under the provisions of Section 33C(2) of the ID Act. Further

contention of the petitioner is that, the employee having raised a claim at a belated stage of around three years, the authorities should have rejected the claim on the ground of limitation.

3. Dealing with the issue of limitation first, this court is of the opinion that the provisions of the Labour Laws are liberal legislation enacted for the benefit of the labours. Moreover, the claim of the employee being a monetary claim, it would be a case of recurring cause of action. The ground of delay and the period of limitation should not be strictly applied by the petitioner in such cases. As such, the contention of the petitioner with regard to limitation stands negated.

4. So far as the issue whether such claim could have been raised under the provisions of Section 33C(2) of the ID Act is concerned, the plain reading of the said provision by itself makes it evidently clear as to what are the claims which would be maintainable under the said provision. For ready reference, the provisions of Section 33C(2) of the ID Act is reproduced hereinunder:

> "(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."

5. A plain reading of the aforesaid provisions clearly reflect that where any worker is entitled to receive some monetary benefit from the employer and which could be computed in terms of money those can be claimed under Section 33C(2) of ID Act. In the instant case, so far as granting of PLR and Bonus to an employee is concerned, the same is not in dispute. The rate at which PLR and bonus is to be paid is also not in dispute. The employee was in service during the said period is not in dispute. Hence, the claim of the employee is one which could be easily computed in terms of money.

6. The only dispute which the management intends to take is one that the employee otherwise suffers disqualification for the benefits of bonus as also the PLR on his being dismissed from service on the ground of fraud or any of the conditions stipulated under Section 9 of the Payment of Bonus Act, 1965 (in short, the Bonus Act) or the disqualification so envisaged in the circular of the Coal India Limited dated 12.10.2012, the conditions which are pari materia to the conditions envisaged in Section 9 of the Bonus Act.

7. In the instant case, the employee stands terminated from service w.e.f. 25.07.2013. The claim of PLR and Bonus raised by the employee is for the financial year, 2012-13 i.e. the financial year which started from 1st April, 2012 and ending on 31st March, 2013. During the said financial year admittedly the employee was working with the petitioner. The employee finally stood terminated from service w.e.f. 25.07.2013 i.e. in the financial year, 2013-14. The disqualification for the PLR and Bonus is from the date of termination. The disqualification for PLR could had been for the financial year in which the employee stood terminated. In the instant case the claim for PLR and bonus is for the previous financial year i.e. for the year 2012-13. Neither the scheme in which the PLR is to be given to the employee, nor the Bonus Act envisages a clause which says that issuance of charge sheet in a disciplinary proceedings itself can be a ground for either withholding of bonus or PLR. In the absence of any such condition and Section 9 of the Bonus Act being very clear that disqualification is only on the dismissal from service. This means that if an employee was on roll of the department for the financial year in which he has not been dismissed, he cannot be denied PLR as well as Bonus provided he has worked with the establishment for the minimum period under the scheme, which would enable him the said benefits.

8. There is no dispute raised by petitioner so far as entitlement of the employee other than his alleged disqualification is concerned. It is also not a case of the petitioner-establishment that the employee has not discharged his duties during the said period, which otherwise means that the worker was infact working with the petitioner during the financial year 2012-13 continuously.

9. In view of the same, the employee's claim for PLR and bonus for the year 2012-13 was proper, legal and justified and the Labour Court has not committed any error in entertaining the claim, as the amount payable to the employee; the scheme being in operation under the petitioner establishment; and the employee having worked during the said period are all admitted facts which has not been disputed by the petitioner-establishment.

10. In view of the aforesaid facts and circumstances of the case, and also taking note of the fact that the amount involved in dispute also being a meager amount of Rs.34,500/-, the award dated 17.05.2018 does not warrant any interference.

11. The writ petition accordingly thus fails and is rejected.

Sd/-
(P. Sam Koshy)
Judge

inder