

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 3577 of 2019

Date of Decision: 08.02.2019

Ravinder Kumar

...Petitioner

Vs.

Presiding Officer, Industrial Tribunal, Patiala and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Balwinder Singh Sudan, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. A pre-existing right to Variable Dearness Allowance could not be established before the Labour Court which has result in dismissal of the application filed under Section 33-C (2) of the Industrial Disputes Act, 1947 by the petitioner. The subsequent settlement conferred the right upon those employees who were appointed prior to 01.12.2006. The Labour Court has rightly held that the applicants are not entitled to receive the Variable Dearness Allowance as claimed by them and as such the applications are not maintainable.

2. It is well-settled that proceedings under Section 33-C (2) are in the nature of execution of an existing right which can be computed in terms of money. New rights cannot be treated within this jurisdiction. I would, therefore, find no infirmity or illegality in the impugned order dismissing the applications.

3. Accordingly, the petition is dismissed. Since the petitioner approached the wrong forum and spent four years litigating there to get an adjudication on the dispute, the dismissal of the petition on point of jurisdiction will, however, not preclude him to take recourse to law in an appropriate forum which is possessed of jurisdiction to decide the dispute.

(RAJIV NARAIN RAINA)
JUDGE

08.02.2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No