

**CWP-14186-2000 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****212****CWP-14186-2000 (O&M)
Date of Decision: 18.11.2024****Mukhwinder Singh****...Petitioner****Versus****Labour Court, Bathinda and another****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: - Ms. Anamika Sheoran, Advocate
for Mr. Vikas Singh, Advocate for the petitioner
Mr. P.S. Bawa, Advocate for respondent No.2

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 26.07.1999 whereby Labour Court has dismissed his application under Section 33-C(2) of the Industrial Disputes Act, 1947 (for short '**ID Act**').

2. The petitioner, claiming a sum of ₹17,052/- on the ground that respondent has not paid minimum wages, preferred an application under Section 33-C(2) of the ID Act before the Labour Court. The matter came up for consideration before the Labour Court, Bathinda which vide order dated 26.07.1999 rejected his application. The relevant extracts of impugned order dated 26.07.1999 are produced as below:



“9. I have given my careful consideration and on perusal of the record I find that in this case the documentary evidence led by the respondent itself contradicts the stand taken by it in the reply. No doubt, the respondent company moved a joint application copy Ex.A/2 dated 24.8.87 for the transfer of the bus No. PUO-2181 in the name of M/s Ex. serviceman Transport Company, Lehri Bhagi but the respondent company has not placed on record the final order passed by RTA, Ferozepur on the said application. Furthermore, the record of DTO office itself go to show that the registration certificate of Bus No. PUQ 2181, which met with the alleged accident on 30.11.88, on the basis of which a criminal case was registered against the applicant in which he subsequently went on acquittal was deposited with the office on 29.12.88 by Ladi Bus Service, Reg d. Mansa, which itself belies the stand of the respondent so far as inter-se relationship of the parties is concerned. Yet, there is another very material document produced by the respondent itself which is the application dated 6.10.94 Ex.R/13 filed by the respondent for seeking permission of the court for disposal of the bus which was allowed by the Criminal Court vide order Ex.R/14. Thus, from the evidence discussed above, it is quite clear that bus No. PUO-2181 was never transferred till 6.10.94 when the respondent filed an application for its disposal and resultantly, it can be safely concluded that the applicant was in the employment of the respondent at the time when this bus met with an accident.”

10. Now, so far as the question of entitlement of difference of wages, as claimed by the applicant is concerned, the applicant has merely deposed that he is entitled to the difference of wages as contained in the



application Ex.A/2. However, the applicant has not led even an iota of evidence to prove if the applicant was in the actual employment of the respondent after the date of accident; the applicant has not summoned any record from the respondent viz attendance register, salary register or any other register to prove that he actually remained employed or he was paid the wages Rs.300/- per month, as alleged by him in the application. It is not disputed that the onus to prove his entitlement qua the claim was on the applicant and the later having failed to prove the same, I hold that the applicant is not entitled to the amount claimed.”

3. Learned counsel for the petitioner submits that respondent withheld petitioner's wages and Labour Court has passed impugned order contrary to the factual and legal position. The petitioner had worked with the respondent as driver from 1985 to 1999 and was paid salary @ Rs.300/- per month which was less than prescribed minimum wages.

4. Learned counsel for the respondent No.2 submits that petitioner has failed to prove employer-employee relation and there is no infirmity in the impugned order.

5. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance

6. The petitioner is claiming minimum wages. He claims that respondent during the period in question has paid lesser than prescribed minimum wages. The minimum wages are prescribed under Minimum Wages Act, 1948 (for short '**1948 Act**'). A complete mechanism for redressal of grievance on account of non-payment or short payment of wages has been

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prescribed in the said Act. The proceedings under Section 33-C(2) of ID Act are sort of execution proceedings. A workman whose entitlement is established, may approach the Labour Court for the recovery of his dues. A workman cannot approach Labour Court for determination of his rights which are disputed by the other side.

7. In the case in hand, the respondent was even disputing employment leaving aside minimum wages. The Labour Court has held that the petitioner failed to prove his employment. In view of complete mechanism provided under Section 20 of 1948 Act, the right course for the petitioner was to approach the authorities under the said Act instead of Labour Court under Section 33-C(2) of ID Act.

8. In the wake of above discussion and findings, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

9. Pending application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

18.11.2024*Mohit Kumar*

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