



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

CWP-15432-2017

Date of Decision: 27.09.2024

INDERJIT SINGH AND ORS

..... Petitioners

Versus

**PRESIDING OFFICER INDUSTRIAL TRIBUNAL PATIALA AND
ORS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : None for the petitioners.

Mr. Vikas Singh, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 27.04.2017 (Annexure P-1) whereby Labour Court has declined application of the petitioner under Section 33C (2) of Industrial Disputes Act, 1947 (for short '1947 Act').

2. The respondent was a Cooperative Society which was wound up on 03.11.2005 by order passed by authority under Punjab Cooperative Societies Act, 1961. The respondent was a seasonal industry as it was engaged in the business of manufacturing sugar. There is a particular crushing period in the sugar manufacturing industry. It normally begins in the month of October and ends in the month of March. The respondent used to engage workers for the crushing period and relieved on completion of the said period. The workers were paid retention allowance



for the intervening period i.e. period between the end of one crushing period and commencement of second crushing period. Last crushing period of respondent was 2004-2005 and its unit was wound up on 03.11.2005. On account of closure of unit, the respondent did not pay retention allowance to the petitioners.

3. The petitioner preferred an application under Section 33C(2) of 1947 Act before Labour Court which dismissed the same on the ground that respondent's unit has already been closed. The relevant findings recorded by Labour Court are reproduced as below:

“18. From the evidence on record it is clear that the respondent Mills was closed by the orders of Registrar, Cooperative Societies, Punjab Ex.M3 dt.03-11-2005 and applicants had filed C.W.P. No.21291 of 2011 titled Joga Singh & Others Vs. State of Punjab & others and C.W.P. No.16213 of 2012 titled Avtar Singh & others Vs. State of Punjab & others in Hon'ble High Court and the same were dismissed vide order Ex.M4. It is also clear from Ex.A1 to Ex. A95 that the applicants were paid the settled dues immediately after receipt of funds from the Government. It is also clear that closing of the Mills was as per orders of Registrar Cooperative Societies Punjab dt.03-11-2005 Ex.M3 and the same was beyond the control of the respondent management. Thus, application of the applicants is not maintainable and they are not entitled to the claimed amount.

19. Thus, in view of the above discussion, issue No.1 is decided against the applicants and issue No.2 is decided in favour of the respondents.

RELIEF



20. *In view of findings on the issues framed in this application, the application is dismissed. File be consigned to the record room.”*

4. This Court does not find any jurisdictional error or factual infirmity warranting interference. The petitioner after closure of the unit could not claim retention allowance. In any case, they were supposed to approach liquidator but they opted to file application under Section 33C(2) of 1947 Act.

5. Dismissed with liberty to petitioner to move an appropriate application, if cause survives.

(JAGMOHAN BANSAL)
JUDGE

27.09.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>