IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

116 **CWP-21171-2024**
Date of decision: 19.09.2024

DB CORP LIMITED AND ANOTHER **....PETITIONERS**

Vs.

DAVINDER KUMAR AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Vikas Mohan Gupta, Advocate
for the petitioners.

Mr. Labh Singh Sandhu, Advocate
for respondent No. 1.

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JAGMOHAN BANSAL, J (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of Award dated 24.08.2023 (Annexure P-1) whereby Labour Court-cum-Industrial Tribunal has answered the reference in favour of the workman.

2. The petitioners are engaged in the business of publication of newspapers. The circulation of newspapers published by petitioners is across the country. The employees of petitioners are governed by 'The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955' (for short '1955 Act').

In terms of Section 10 of the aforesaid Act, the Government from time to time has constituted Boards and the last Board was Majithia Wage Board which released its recommendations on 31.12.2010. As per recommendations of

Majithia Wage Board, the newspaper establishments have been classified into 8 classes. The said classification is based upon gross revenue.

3. The respondent-workman was working with petitioners as Senior Reporter and his services came to be terminated on 04.04.2019. The petitioners filed civil suit against workman seeking recovery of Rs. 1,68,796/-. The said suit is still pending before Civil Court, Chandigarh. The workman in terms of Section 17 of 1955 Act made representation before Labour Authorities and matter came to be referred to Industrial Tribunal by State Government.

4. The petitioners as well as respondent No. 1 filed their respective submissions before the Tribunal which by impugned order has held that workman is entitled to differential amount of Wages to the tune of Rs.11,64,507/- along with interest @ 6% per annum. The Tribunal has rejected question of limitation and jurisdiction raised by the petitioners. The Tribunal has classified petitioner under Class-I in terms of recommendations of Majithia Wage Board. The said classification is based upon revenue report submitted by workman which was downloaded from 'Wikipedia Site'. As per Wikipedia Site, the gross revenue of the petitioners comes to Rs.2236 crores per annum. As per Majithia Wage Board, if average gross revenue of the establishment is more than Rs.1,000 crores, it is classified under Class-I.

5. Mr. Vikas Mohan Gupta, Advocate submits that Tribunal has wrongly relied upon Wikipedia Site. The classification of an establishment is made on the basis of gross revenue as well as revenue of the Unit. The petitioner is a listed company and its balance-sheet is easily available. The workman did not submit balance-sheet whereas submitted documents downloaded from Wikipedia Site. The Tribunal has further not considered revenue of the Unit whereas gross revenue of the company has been considered.

For recovery of dues, limitation period of 1 year has been prescribed under Section 33-C(1) of 1947 Act whereas petitioners had preferred petition before Labour Court after 4 years, thus, petition was barred by limitation. The petition before Labour Court under Section 17 of 1955 Act was not maintainable.

6. Per contra, Mr. Labh Singh Sandhu, Advocate submits that questions of jurisdiction and limitation have been duly answered by the Tribunal. There is no infirmity in the findings of the Tribunal.

With respect to classification, he submits that petitioners did not submit their annual reports as well as Unit wise report, thus, Tribunal had no option except to rely upon data downloaded from Wikipedia Site.

7. I have heard counsel for the parties and with their able assistance perused the record.

8. The petitioners have ignored Section 33-C(2) of Industrial Disputes Act, 1947 wherein no limitation period has been prescribed and wrongly relying upon Section 33-C(1) of 1947 Act. Further, section 17 of 1955 Act though is *pari materia* with Section 33(C) of 1947 Act but neither in Section 17(1) nor in 17(2) limitation period has been prescribed. Thus, period of limitation of 1 year prescribed under Section 33-C(1) cannot be imported while adjudicating reference made under Section 17 of 1955 Act. It is further apt to notice that before Labour Court the petitioners were claiming limitation of 3 years.

The question of maintainability has been explicitly answered by Labour Court. This Court does not find any infirmity in the findings recorded by Labour Court *qua* maintainability.

9. Concededly, the petitioners did not submit their balance-sheet/annual reports disclosing revenue generated during the years 2007-08, 2008-09 and 2009-10, however, it has placed before this Court balance-sheets along with Annexures submitted before Income Tax Authorities as well as Registrar of Companies. The average gross revenue of the company for the aforesaid years comes to less than Rs. 1,000 crores, thus, petitioners cannot be classified as Class-I. The petitioners have further placed on record revenue generated by Ludhiana Unit. It is separately registered and falls within the definition of establishment. The Tribunal was bereft of these documents and was bound to record findings on the basis of available figures. The status of Ludhiana Unit was required to be determined in terms of report of Majithia Wage Board which requires to consider gross revenue as well as Unit's revenue.

10. In the wake of above discussions and findings, this Court finds it appropriate to remand the matter back to Industrial Tribunal to reconsider the status of petitioners *qua* classification in terms of report of Majithia Wage Board.

11. The parties at the first instance would appear before Tribunal on 27.09.2024 and thereafter as directed by Tribunal.

12. Disposed of in above terms.

19.09.2024 **[JAGMOHAN BANSAL]**
manoj **JUDGE**

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