

**CWP-3157-1998****1**

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

(218)**CWP-3157-1998****Date of Decision : April 24, 2025****Municipal Committee Hissar through its President .. Petitioner**

Versus

Presiding Officer, Labour Court, Hissar and another.. Respondents**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Ms. Suverna Mutneja, Advocate, for the petitioner.

None for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 24.10.1997 (Annexure P-5) passed by the Labour Court on an application under Section 33-C (2) of the Industrial Disputes Act, 1947 (hereinafter referred as '1947 Act') filed by respondent No.2-workman claiming a particular pay scale while working on the post of Assistant Pump Operator.

2. The prayer of the respondent No.2-workman was that he is not being given the salary of the post of Pump Operator which he is entitled for keeping in view the revision of the pay scale. The application under Section 33-C (2) of the 1947 Act was filed to claim the aforementioned. The Labour Court vide Award dated 24.10.1997 (Annexure P-5) directed the Department to pay the respondent No.2-workman the pay scale of Rs.400-660/- w.e.f. 15.12.1981 and the pay scale of Rs.950-1500/- with effect from 01.01.1986 and calculate his pay and pay the arrears. The said order dated 24.10. 1997 (Annexure P-5) is under challenge in the present writ petition.

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3. While issuing notice of motion, on depositing of 50% of the amount awarded by the Labour Court vide order dated 24.10.1997 (Annexure P-5), the operation of the impugned order was stayed.

4. No one has appeared on behalf of respondent No.2-workman. Notices were issued but the same have been received back unserved.

5. I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

6. The only question which arise for the determination is whether, the claim of a particular pay scale can be raised by way of reference under Section 10 of the 1947 Act or the same can be claimed under Section 33-C (2) of the 1947 Act.

7. As per the settled principle of law settled by the Hon'ble Supreme Court of India that the proceedings which have been initiated under Section 33-C (2) of the 1947 Act can only be for execution of the award or the settlement between the parties and cannot be used for adjudication of the claim.

8. The Hon'ble Supreme Court of India while deciding ***Civil Appeal No.7138 of 1994 titled as Municipal Corporation of Delhi vs. Ganesh Razak and another, decided on 20.10.1994***, held that the claim of a wage without adjudication of entitlement is not maintainable under Section 33-C (2) of the 1947 Act. The relevant paragraph 12 of the said judgment is as under:-

“12. The High Court has referred to some of these decisions but missed the true import thereof. The ratio of these decisions clearly indicates that where the very basis of the claim or the entitlement of the workmen to a certain benefit is disputed, there being, no earlier adjudication or recognition 5



(1968) 1 LLJ 589 : 38 Comp Cas 400 (SC) thereof by the employer, the dispute relating to entitlement is not incidental to the benefit claimed and is, therefore, clearly outside the scope of a proceeding under [Section 33- C\(2\)](#) of the Act. The Labour Court has no jurisdiction to first decide the workmen's entitlement and then proceed to compute the benefit so adjudicated on that basis in exercise of its power under [Section 33-C\(2\)](#) of the Act. It is only when the entitlement has been earlier adjudicated or recognised by tile employer and thereafter for the purpose of implementation or enforcement thereof some ambiguity requires interpretation that the interpretation is treated as incidental to the Labour Court's power under [Section 33- C\(2\)](#) like that of the Executing Court's power to interpret the decree for the purpose of its execution.”

9. In the present case, the claim was raised for adjudication of his entitlement by the respondent No.2-workman under Section 33-C (2) of the 1947 Act and it is a conceded fact that same was not under any award or settlement between the parties. That being so, the Labour Court exceeded its jurisdiction while dealing with the said application under Section 33-C (2) of the 1947 Act to decide the entitlement of the respondent No.2-workman. The said act on the part of the Tribunal is contrary to the settled principle of law noticed hereinbefore.

10. Keeping in view the above, the order dated 24.10.1997 (Annexure P-5) is set aside by giving liberty to the respondent No.2-workman to raise the claim under Section 10 of the Industrial Disputes Act 1947 to claim the entitled wages in case the same were not paid to him while he was in service.



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11. The present writ petition is disposed of in above terms.

April 24, 2025

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No