



CM-6030-CWP-2025 in/& -1-
CWP-763-2001 &

CM-6029-CWP-2025 in/&
CWP-906-2001

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103 (02 cases)

CM-6030-CWP-2025 in/&
CWP-763-2001
Date of Decision :03.05.2025

Vijender Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CM-6029-CWP-2025 in/&
CWP-906-2001

Chander Parkash

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dilbagh Singh, Advocate for the applicant-petitioner(s).

Mr. Saurabh Girdhar, AAG, Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

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1. Present applications have been filed in the respective main writ petitions for recalling the order dated 02.04.2025 passed by this Court by



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which, the main writ petitions were dismissed for non-prosecution.

2. Notice of the application to the respondent-State.
3. Mr. Saurabh Girdhar, AAG, Haryana accepts notice on behalf of respondent-State and raises no objection for the grant of prayer s made in the present applications.
4. Keeping in view the averments made in the applications, which are duly supported by an affidavit, applications are allowed. Order dated 02.04.2025 passed by this Court is recalled and the main writ petitions are ordered to be restored to its original number and status and are taken up for hearing today itself.

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5. In the present petitions, the grievance being raised by the petitioner(s) is that their claim for the grant of benefit of regularization of their services on completion of 240 days in service in view of the judgment of this Court in **CWP-1437-1988 titled as, Ishwar Singh vs. State of Haryana and others, decided on 13.07.2005** has been declined.
6. Learned counsel for the petitioner(s) submits that the petitioner(s) were appointed in the year 1989 and they had completed 240 days in service by January, 1991 and though, a resolution (Annexure P/1) was passed by the employer but the same was not accepted by the State so as to regularize the services of the petitioner(s).
7. Learned counsel for the petitioner(s) further submits that though, the services of the petitioner(s) were regularized from the year



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1996, claim of the petitioner(s) is that their services should have been regularized w.e.f. 01.02.1991 on completion of 240 days in service keeping in view the judgment of this Court in **Ishwar Singh (supra)**.

8. Learned counsel for the petitioner(s) submits that the award dated 25.07.2000 (Annexure P/5) passed by the Labour Court on the application filed under Section 33 (C) (2) of the Industrial Disputes, Act, 1947 (hereinafter referred to as '1947 Act') rejecting the claim of the petitioner(s) for the grant of pay scale of Rs.950-1500 w.e.f. 01.02.1991 is arbitrary and illegal and the same is liable to be set aside.

9. Upon notice of motion, the respondents have appeared and submitted that the claim of the petitioner(s) that there is an automatic regularization of service on completion of 240 days in service is incorrect. Learned counsel for the respondents submits that the resolution (Annexure P/1), which was being relied upon by the petitioner(s) to claim the benefit of regular pay scale of Rs.950-1500 w.e.f. 01.02.1991 was not passed by the competent authority and even otherwise, in case, the petitioner(s) were aggrieved against the non-grant of benefit of regular pay scale of Rs.950-1500 w.e.f. 01.02.1991, they can only raise the same through a reference under Section 10 of the 1947 Act rather than filing an application under Section 33 (C) (2) of the 1947 Act which is not applicable.

10. I have heard learned counsel for the parties and have gone through the record with their able assistance.

11. In the present petition, challenge is to the award dated



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25.07.2000 (Annexure P/5) passed by the Labour Court rejecting the prayer of the petitioner(s) for the grant of pay scale of Rs.950-1500 w.e.f. 01.02.1991. The said grievance was raised by the petitioner(s) by filing an application under Section 33(C) (2) of the 1947 Act. It is a conceded position that the services of the petitioner(s) were never regularized w.e.f. 01.02.1991 by the competent authority and till the services of the petitioner(s) are regularized from the said date, the grant of pay scale of Rs.950-1500 w.e.f. 01.02.1991 was not admissible. In case, the petitioner(s) wanted the said pay scale, they were liable to initiate a reference under Section 10 of the 1947 Act rather than claiming the same under Section 33 (C) (2) of the 1947 Act. The Section 33 (C) (2) of the 1947 Act is reproduced as under:-

“Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government] *[Substituted by Act 36 of 1964, Section 19, for Section 33-C (w.e.f. 19.12.1964).]*[within a period not exceeding three months:] *[Inserted by Act [46 of 1982](#), Section 19 (w.e.f. 21.8.1984).]*[Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.”

12. A bare perusal of the above reproduction would show that the



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workmen is entitled for the benefits, which are undisputed and already adjudged.

13. Further, it is settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.813 of 2022 titled as M/s Bombay Chemical Industries vs. Deputy Labour Commissioner and another, decided on 04.02.2022** that where a claim is to be adjudicated, Section 33 (C) (2) of the 1947 Act will not come into being and any such application filed where adjudication of the claim is to be done. is liable to be rejected. Relevant paragraphs of the judgment are as under:-

“6. At the outset it is required to be noted that respondent No.2 herein filed an application before the Labour Court under Section 33(C)(2) of the Industrial Disputes Act, demanding difference of wages from 01.04.2006 to 31.03.2012. It was thus the case on behalf of respondent No.2 that he was working with the appellant as a salesman. However, the appellant had taken a categorical stand that respondent No.2 was never engaged by the appellant. It was specifically the case on behalf of the appellant that respondent No.2 had never worked in the establishment in the post of salesman. Therefore, once there was a serious dispute that respondent No.2 had worked as an employee of the appellant and there was a very serious dispute raised by the appellant that respondent No.2 was not in employment as a salesman as claimed by respondent No.2, thereafter, it was not open for the Labour Court to entertain disputed questions and adjudicate upon the employer- employee relationship between the appellant and respondent No.2. As per the settled proposition of law, in an application under Section 33(C)(2) of the Industrial Disputes Act, the Labour Court has no jurisdiction and cannot adjudicate dispute of entitlement or



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the basis of the claim of workmen. It can only interpret the award or settlement on which the claim is based. As held by this Court in the case of Ganesh Razak and Anr. (supra), the labour court's jurisdiction under Section 33(C)(2) of the Industrial Disputes Act is like that of an executing court. As per the settled preposition of law without prior adjudication or recognition of the disputed claim of the workmen, proceedings for computation of the arrears of wages and/or difference of wages claimed by the workmen shall not be maintainable under Section 33(C)(2) of the Industrial Disputes Act. (See Municipal Corporation of Delhi Vs. Ganesh Razak and Anr. (1995) 1 SCC 235).

In the case of Kankuben (supra), it is observed and held that whenever a workman is entitled to receive from his employer any money or any benefit which is capable of being computed in terms of money and which he is entitled to receive from his employer and is denied of such benefit can approach Labour Court under Section 33C (2) of the ID Act. It is further observed that the benefit sought to be enforced under Section 33C (2) of the ID Act is necessarily a preexisting benefit or one flowing from a preexisting right. The difference between a preexisting right or benefit on one hand and the right or benefit, which is considered just and fair on the other hand is vital. The former falls within jurisdiction of Labour Court exercising powers under Section 33C (2) of the ID Act while the latter does not.

7. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, when there was no prior adjudication on the issue whether respondent No.2 herein was in employment as a salesman as claimed by respondent No.2 herein and there was a serious dispute raised that respondent No.2 was never in employment as a salesman and the documents relied upon by respondent No.2 were seriously disputed by the appellant and it was the case on behalf of the appellant that those documents are forged and/or false, thereafter the Labour Court ought not to have proceeded



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further with the application under Section 33(C)(2) of the Industrial Disputes Act. The Labour Court ought to have relegated respondent No.2 to initiate appropriate proceedings by way of reference and get his right crystalized and/or adjudicate upon. Therefore, the order passed by the Labour Court was beyond the jurisdiction conferred under Section 33(C)(2) of the Industrial Disputes Act. The High Court has not appreciated the aforesaid facts and has confirmed the same without advertng to the scope and ambit of the jurisdiction of the Labour Court under Section 33(C)(2) of the Industrial Disputes Act.”

14. Keeping in view the fact that nothing has come on record to show that services of the petitioner(s) were regularized w.e.f. 01.02.1991 by any competent authority, the claim raised by the petitioner(s) under Section 33(C) (2) of the 1947 Act for the grant of pay scale of Rs.950-1500 w.e.f. 01.02.1991 was without there being any adjudication of the said claim in favour of the petitioner(s).

15. Keeping in view the totality of the facts and circumstances of the present case coupled with the settled principle of law as cited hereinbefore, no ground for interference by this Court is made out and both the writ petitions are accordingly dismissed.

16. Civil miscellaneous application pending, if any, is also disposed of.

17. A photocopy of this order be placed on the file of connected case.

May 03, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No