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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6604/2024, CM APPL. 60644/2025(Exemption from service on respondent no.2.) & CM APPL. 78065/2025(For deleting the name)

SUNIL KUMAR

.....Petitioner

Through: Mr. Fidel Sebastian, Adv. through Vc.
versus

REGIONAL LABOUR COMMISSIONER GOI AND ORS.

.....Respondents

Through: Mr. Vinay Yadav, CGSC with Mr.
Ansh Kalra, Ms. Kamna Behrani and
Mr. Neeraj Raj Paulose, Advocates for
R-1.
Mr. Sanjay Pal, GP for R-1.
Mr. M. Chaudhury, Ms. Swet Shikha
and Ms. Shreya, Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

12.12.2025

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1. This hearing has been done through hybrid mode.
2. The present petition under Article 226 of the Constitution of India, 1950, seeks the following prayers: -

“(a) issue a Writ in the nature of Certiorari or any other appropriate Writ order or direction against the Respondents thereby setting aside the order dated 18.11.2022 passed by Respondent No. 1;
(b) issue an appropriate Writ, Order or direction directing the Respondent No.1 to initiate proceedings u/s 33 (c) (1) of the I D Act against and in the event of the failure of Respondent No.2 to make payment of amount due to the petitioner, recovery certificate may be directed to be issued to Respondent No. 2;
(c) Cost of the proceedings may be directed to be paid to the



Petitioner;

(d) pass any other order or orders in favour of the Petitioner which this Hon'ble Court may deem fit & proper in the facts & circumstances of the present Petition may also be passed in favour of the Petitioner and against the Respondents.”

3. The present petition challenges the order dated 18.11.2022 passed by the Office of the Dy. Chief Labour Commissioner (Central) on an application moved on behalf of the petitioner under Section 33C(1) of the ID Act, 1947. While disposing of the said application, learned Regional Labour Commissioner, Central, New Delhi, passed impugned order wherein, it has been recorded as under: -

“This is an application filed by Sebastian & Co. (Advocates) on behalf of Sh. Sunil Kumar S/o Sh. Jeet Singh, (Worker) under Section 33 C (1) of the Industrial Disputes Act 1947, for recovery of dues.

On careful perusal of the claim file it has been observed that a sum of Rs. 19, 23,516/- has been claimed by the workman by his own computation based on the difference of pay arrear.

In the above regard, it must be noted that this Authority is entrusted only with the powers to deal with the claims filed under Section 33 C (1) wherein, the dues are pre-determined in the award or settlement itself. The amount has not. determined by the CGIT or any Labour Court.

In view of the above, the undersigned Authority of is of the considered opinion that the subject matter of the instant claim does not fall under the provision of Section 33 C (1).

The claim application is disposed off accordingly.”

(emphasis supplied)

4. Attention of this Court has been drawn to an order dated 14.01.2019



passed by learned Central Government Industrial Tribunal-Cum-Labour Court-II, Dwarka Courts Complex, New Delhi, on an application filed on behalf of the management with a prayer seeking approval in respect of the action of the management in awarding penalty to the petitioner in the nature of removal of service during the pendency of the dispute between the petitioner and the management, which reads thus: -

“This record stands posted for workman evidence today none appeared for the applicant/management despite repeated call. Peruse the record. It appears that the management M/s Combata Aviation Pvt. Ltd. had filed the application u/s 33(2)(b) of the I.D Act on behalf of the management with a prayer seeking approval in respect of the action of the management in award in penalty in the nature of removal of service on the workman for the grounds stated therein when there is a dispute pending between the workman and the management in form of ID. Case no. 122/2012 raised by combata Aviation karmachari Union.

After admitting the application the respondent was noticed who appeared and filed objection. Thereafter the workman made prayer for payment of subsistence allowance by way of interim relief.

Though the management filed rejoinder to the said application, remained absent thereafter without pursuing the matter any further.

As seen from the record the case suffered :more than 20 adjournment in the meantime more than 3 years passed since the date of the application filed u/s 33 (2) (b) of the I.D Act. by the management. On the contrary the workman is litigating other proceedings before this tribunal to establish their claim against the management. Since the management sought for the approval of this tribunal for the punitive action taken against the workman, it is supposed to substantiate the same forgetting the approval. Filing of the petition u/s 33(2)(b) is not an automatic procedure for approving the action taken by the management. For the default on the part of the management to substantiate the stand the petition



filed by the management is held devoid of merit and rejected. The proceeding is accordingly disposed off. The record be consigned.”

5. In **Delhi Transport Corporation v. Jagdish Chander, 2005 SCC OnLine Del 116**, Hon’ble Full Bench of this Court has observed and held as under:-

“25. Why the workman should be compelled to commence avoidable litigation even when by operation of law of the land the order of termination/dismissal passed by the employer against him is *non est*, ineffective and inoperative in law. The order under S. 32(2)(b)¹ of the Act passed by the Tribunal after it has taken complete proceedings and determined the controversy in accordance with law and after affording full opportunity to the parties to lead the evidence in support of their claim. Culmination of such judicial proceedings would have to be, thus, treated analogous to and covered under the expression of “award directing reinstatement.””

6. In view of the aforesaid observation, after dismissal of the application under Section 33(2)(b) of the ID Act, the services of the petitioner were not terminated and he is deemed to have continued to remain in service and the same though not being an award *stricto sensu* within the meaning of Section 17B of the ID Act, would have entitled the petitioner with relief of reinstatement in law.

7. In view of the aforesaid, the order dated 14.01.2019 passed by learned Central Government Industrial Tribunal-Cum-Labour Court-II, Dwarka Courts Complex, New Delhi, the impugned order dated 18.11.2022 passed by Office of the Dy. Chief Labour Commissioner (Central) under Section 33C(1) of the ID Act, 1947 cannot be sustained.

8. In these circumstances, the matter is remanded back to the Dy. Chief

¹ The correct provision, however, is Section 33(2)(b) of the Industrial Disputes Act, 1947



Labour Commissioner (Central) to decide the application under Section 33C(1) of the ID Act, 1947, in accordance with law after hearing the concerned parties by a reasoned and speaking order. Let the matter be listed before learned Regional Labour Commissioner, Central, New Delhi, on 13.01.2026. The petitioner is directed to appear before the learned Regional Labour Commissioner on the said date.

9. The present petition is disposed of with the aforesaid directions.

10. Copy of the order be sent to learned Regional Labour Commissioner, Central, New Delhi, for necessary information and compliance.

11. Pending application(s), if any also stand disposed of.

CM APPL. 78065/2025 (for deleting respondent no. 3/ Delhi International Airport Limited from array of parties)

12. The present application filed on behalf of the respondent No. 3/DIAL under Order 1 Rule 10 read with Section 151 of the CPC seeks the following prayers: -

- “a) Allow the present application and delete the name of the Respondent No. 3/ Delhi International Airport Limited from the array of parties in the present Writ Petition; and
- b) Pass any other order (s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

13. Learned Senior Counsel appearing on behalf of the respondent No.3/applicant submits that the said respondent was never a party before the Industrial Tribunal and therefore, cannot be made a party to the application filed on behalf of the petitioner under Section 33C(1) of the ID Act, 1947 for execution of the aforesaid order dated 14.01.2019.

14. Learned counsel for the petitioner/non-applicant submits that the



present application may be allowed without prejudice to the rights and contentions of the petitioner for moving an appropriate application before the Dy. Labour Commissioner seeking impleadment of respondent no. 3/ Delhi International Airport Limited.

15. In view of the above, the application is disposed of by deleting respondent no. 3/Delhi International Airport Limited from the array of the parties in the present petition.

16. Needless to state that on an application being moved by the petitioner/non-applicant before the Regional Labour Commissioner for seeking appropriate relief *qua* the aforesaid respondent, the same shall be decided by the concerned Authority in accordance with law.

17. The present application is disposed of in the aforesaid terms.

AMIT SHARMA, J

DECEMBER 12, 2025/sn/ns