

**CWP-6091-2016**

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216**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-6091-2016**Date of Decision : **24.03.2026****THE CHIEF ENGINEER**

.....Petitioner

VERSUS**KAMAL SINGH DRILLER & OTHERS**

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARIPresent : Mr. Amit Kumar Goyal, Addl.A.G., Punjab.
for the petitioner.Mr. Deepak Girotra, Advocate,
Mr. Shivendra Swaroop, Advocate,
Mr. Chetan Sharma, Advocate and
Mr. Prajjwal Jaiswal, Advocate,
for respondents no.1 to 19.

None for respondent no.21.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition, as cast under Article 226/227 of the Constitution of India, the petitioner-management questioned the legality of the order dated 29.07.2015 (Annexure P-7), on the ground that the learned Industrial Tribunal concerned, does not vest with the power under Section 33-C(2) of the Industrial Disputes Act, 1947, to adjudicate the issue, as raised by the workmen (respondents no.1 to 19), by way of claim statement.

2. Learned counsel for the petitioner submits that there is no

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pre-existing right flowing from any service rules, therefore, same cannot be granted in application under Section 33-C(2) of the Act of 1947.

3. He further submits that respondents no.1 to 19 (workmen), are the employees of the petitioner-management, which is a government establishment, therefore, they are governed by the Punjab Civil Service Rules. Hence, it is a civil dispute, and not an industrial dispute.

4. He also submits that the deputation allowances as sought by respondents no.1 to 19 (workmen), by filing an application under Section 33-C(2) of the Act of 1947, was disputed, and that issue cannot be adjudicated under the said provision.

5. He, finally, placed reliance upon a judgment of Hon'ble Supreme Court in '**M/s Bombay Chemical Industries vs. Deputy Labour Commissioner and Anr.**' 2022 (1) SCT 650.

6. Learned counsel for respondents no.1 to 19-workmen, vociferously opposed the submissions, as made by learned counsel for the petitioner-management, by submitting that the petitioner-management by filing their reply to the said application, before the learned Tribunal concerned, itself admitted three claims out of four raised by them. On account of certain objections, the Industrial Tribunal has not granted the relief of deputation allowances, and instead only considered and decided, the admitted claim which is well within the jurisdiction of the Industrial Tribunal. Therefore, the provisions of Section 33-C(2) of the Act of 1947, were rightly invoked.



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7. This Court has examined the rival submissions, as made by learned counsel for both the parties concerned, and has perused the entire case file.

8. The relevant facts *qua* which there is no wrangle amongst the parties concerned, are that, respondents no.1 to 19 (workmen), filed an application under Section 33-C(2) of Act of 1947 (Annexure P-1), for grant of following benefits, alongwith 12% interest:-

“1) Deputation Allowance w.e.f. 10.05.2010 to 13.05.2011 @ 10% of pay i.e. Rs. 1176/-per month amounting to.	Rs. 14112/-
2) Uniforms washing Allowance @ Rs. 160/- P.M. For 7 Months.	Rs. 1920/-
3) Transfer Travelling Allowance from Shahpurkandi to Samrala and Samrala to Shahpurkandi.	Rs. 16000/-”
4) Local Travelling Allowance from 10.05.2010 to 13.05.2011 @ Rs. 40/- per day amounting to	Rs. 12000/-
Total amount	Rs. 44032/-

9. The said application was contested by the petitioner-management by filing a reply (Annexure P-2). In the said reply, the petitioner-management only disputed with the demand raised at point no.1, i.e. the claim pertaining to deputation allowances. However, the remaining entitlements of respondents no.1 to 19 (workmen), were duly admitted by the petitioner-management. The relevant extract from the preliminary submissions, in the reply filed by the petitioner-management is reproduced hereinafter:-

“1. That the applicants were sent on deputation from the O/o Respondent No. 1 i.e. Chief Engineer/RSDC to the O/o Respondent No.2 i.e. Managing Director, PSTC, Chandigarh. Before sending on deputation, terms and conditions were executed between Respondents No.1 and Respondents No.2.



As per the terms & conditions, the applications will not be entitled for deputation allowance but the application will be entitled for Transfer Travelling allowance as per Government instructions issued from time to time and local travelling allowance as per PSTC Rules which are to be paid by the Respondent No.2 i.e Managing Director PSTC, Chandigarh. As regards, uniform & washing allowance, the same is being drawn by the applicants alongwith their monthly salary (Copy of terms & conditions are annexed as Annexure R-1)”

10. The learned Industrial Tribunal concerned, by passing the impugned Award only calculated the admissible amount, and declined the relief sought with regard to deputation allowance. Once the petitioner-management has itself admitted the entitlement of respondents no.1 to 19 (workmen) with regard to their claim raised at Point No.2 to 4, there arises no occasion for the petitioner-management to file the instant writ petition by submitting that these issues cannot be adjudicated under Section 33-C(2) of the Act of 1947.

11. The reliance as placed upon by learned counsel for the petitioner-management upon **M/s Bombay Chemical's case** (*supra*), in fact, does not give any strength to his submissions, as the Hon'ble Supreme Court in said judgment has categorically held that, in case the benefit, is sought to be enforced under Section 33-C(2) of the Act of 1947, a pre-existing benefit, or one flowing from pre-existing right, is required to be existed. The difference between pre-existing right or the benefit on the one hand, and the right or benefit which is considered just and fair on the other hand, was held to be vital. Further it was held that the only the pre-existing right or benefit fall within the jurisdiction of



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Labour Court exercising power under Section 33-C(2) of the Act of 1947.

The relevant part of para 6 of the judgement (*supra*), is extracted hereinafter:-

“6.....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 pre-existing benefit or one flowing from a pre-existing right. The difference between a pre-existing 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.”

12. In view of the the trite law, and the ratio laid down in the Judgement (*supra*), this Court finds that the Award passed by the learned Industrial Tribunal concerned, duly passes the test of legality, therefore, warrants no interference.

13. Consequently, the instant petition is, hereby **dismissed**.

14. All pending application(s), if any, also stand **disposed** of accordingly.

March 24, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No