



CWP-19422-2017

-1-

104

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

CWP-19422-2017

Date of Decision : 01.04.2026

**HARYANA STATE MINOR IRRIGATION & TUBEWELLS
CORPORATION LTD. AND ANR.**

.....Petitioners

VERSUS

THE PRESIDING OFFICER AND ANR.

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Ms. Sanchi Bindra, Advocate,
for the petitioner.

Ms. Ishita, Advocate, (Legal-Aid-Counsel)
for respondent no.2.

KULDEEP TIWARI, J. (Oral)

1. The petitioner-management has thrown challenge to the *ex parte* Award dated 29.01.2013 (Annexure P-26), passed by the Industrial Tribunal (respondent no.1), wherethrough, the application under Section 33-C (2) of the Industrial Disputes Act, 1947, as preferred by respondent no.2-workman, for recovery of an amount of Rs.40,000/-, on the delayed payment of the leave encashment, was allowed.

2. The prime contention of learned counsel for the petitioners-management, is that the application (*supra*), has been considered, and adjudicated upon without there being a pre-existing right in favour of respondent no.2-workman.

3. She further submits that respondent no.2-workman, was

**CWP-19422-2017****-2-**

appointed as Junior Assistant/Accounts Clerk on 20.02.1974, and the service of respondent no.2-workman, was retrenched after observing all the rules and regulations w.e.f 30.06.2002, and was paid compensation as per the Industrial Disputes Act, 1947. In view of the directions issued by the Punjab and Haryana High Court, the Board of Directors on 04.02.2003, took a decision to close the corporation w.e.f. 30.07.2003. Thereafter, upon completing all the formalities, due amount with regard to leave encashment was paid to respondent no.2-workman.

4. On the other hand, respondent no.2-workman, approached the learned Industrial Tribunal concerned, with a prayer that the payment of leave encashment of Rs. 95,873/- was due to him on 30.07.2002, but the same was paid in the month of September, 2007. Therefore, he is entitled to interest, to be paid at the rate of 12% p.a.

5. Learned counsel for the petitioners-management, draws attention of this Court towards a judgment dated 27.11.2024, passed by the co-ordinate bench of this Court in CWP-19395-2017 and connected petitions, wherein, it was held that a dispute with regard to; whether respondent no.2, falls within the ambit workman, or not?, cannot be adjudicated by the Labour Court while exercising the powers conferred under the provisions of Section 33-C(2) of the Industrial Disputes Act, 1947.

6. Learned counsel for respondent no.2-workman, though joined the issue on merits, however, she fairly concedes that the co-



ordinate bench vide judgment (*supra*), with regard to the present petitioner-management, has already considered the aforesaid issue, and finally, held that the Labour Court does not have a power to decide the issue, as raised through the application filed under Section 33-C(2) of the Industrial Disputes Act, 1947.

7. On perusal of the judgment (*supra*), this Court finds that the co-ordinate bench has already examined the issue. The relevant of which is extracted hereunder:-

“11. In the case in hand, the respondent was appointed as Junior Engineer. He was retrenched alongwith other employees on account of closure of the Unit. He was paid 3 months’ salary in terms of Service Bye- Laws, 1980 of petitioner-Corporation. The petitioner is claiming that respondent was not workman and respondent is claiming that he was workman in terms of Section 2(s) of I.D. Act. It was a disputed question whether respondent was workman or not. The question could not be adjudicated by Labour Court while exercising power conferred under Section 33-C(2) of I.D. Act. From the arguments of both sides, it is difficult to conclude that there was no dispute between the parties or Management had raised frivolous or vexatious issue to deny claim of the respondent.

12. The Labour Court in exercise of power under Section 33- C(2) of I.D. Act cannot determine entitlement of retrenchment compensation. It can order to employer to pay already determined compensation. Had any other Court already decided question of entitlement or petitioner, at any stage, accepted to pay at par with other workers, the Labour Court could proceed to exercise power under Section 33-C(2) of I.D. Act. The Labour Court has adjudicated disputed questions and thereafter ordered to pay to respondent at par with other workers. Section 33-C(2) of I.D. Act is sort of execution provision and in the absence of already adjudicated/determined entitlement to retrenchment compensation, the Labour Court could not ask the petitioner to pay retrenchment compensation like other workers. Compassion, sympathy or allegation of violation of any vested or fundamental right cannot vest jurisdiction in Labour Court or Tribunal. Labour Court is a creature of ID Act, thus, it cannot travel beyond or contrary to provisions or limits of ID Act. It has no inherent power though it



CWP-19422-2017

-4-

carries ancillary powers which are necessary to exercise powers vested in it.

13. In the wake of above discussion and findings, this Court is of the considered opinion that impugned order(s) deserve to be set aside and accordingly set aside. All the petitions are hereby allowed. The respondents are at liberty to avail remedies as permissible by law. The amount deposited by petitioner with this Court is ordered to be refunded.”

8. In view of the above, this Court finds merits in the instant case. Therefore, the impugned *ex parte* Award dated 29.01.2013 (Annexure P-26), is hereby **set aside**.

9. Resultantly, the instant petition, stands **allowed**.

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

April 01, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

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