



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

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LPA-2887-2025 (O&M).

Date of Decision: 11.02.2026.

Natha Singh

....Appellant.

VERSUS

State of Punjab and another

....Respondents.

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Shailesh Kumar, Advocate (Legal Aid Counsel) and
Mr. Yash Garg, Advocate for the appellant.

Ms. Arundhati Kulshreshtha, Assistant Advocate General,
Punjab.

ANUPINDER SINGH GREWAL, J. (Oral)

CM-7273-LPA-2025

Exemption application is allowed, as prayed for.

CM-7274-LPA-2025

This application is for condonation of delay of 92 days in filing
the appeal.

Issue notice in the application.

At the asking of the Court, Ms. Arundhati Kulshreshtha, AAG,
Punjab, accepts notice of the application and submits that she has no objection
if the application is allowed and delay in filing the appeal is condoned.

Heard.

In view of the above, the application is allowed and delay of 92
days in filing the appeal is condoned.

Main Appeal

The appellant has challenged the judgment of the Single Bench dated 12.05.2025, whereby the Award of the Labour Court directing payment of Rs.1,42,000/- to the appellant along with interest thereon on account of difference of wages has been set aside.

2. Learned counsel for the appellant submits that the appellant had an Award in his favour and the Labour Court had rightly held him entitled to difference of wages in an application preferred by him under Section 33-C (2) of the Industrial Disputes Act, 1947 (hereinafter to be referred as ‘the Act of 1947’).

3. Heard.

4. The appellant is stated to have been working as Work Mistry since 1978 and as he had been working continuously for five years, he was entitled to higher pay scale of Rs.1200-2100. He had filed a claim under Section 33-C(2) of the Act of 1947 and the Labour Court had allowed his claim and directed payment of arrears amounting to Rs.1,42,000/- along with interest. The Award of the Labour Court was challenged by the respondents on the ground that the higher pay scale could be granted to only those employees who were working on semi-skilled/skilled posts, had ITI qualification and had completed five years of service whereas the appellant was working on a non-technical post. The Single Bench had set aside the Award on the ground that there was no adjudication of the claim of the appellant at any point of time and, therefore, the Labour Court could not have proceeded under Section 33-C(2) of the Act of 1947.

5. It is trite that in an application under Section 33-C(2) of the Act of 1947, the Labour Court has no jurisdiction to adjudicate dispute of

entitlement or the basis of the claim of the worker. It can only interpret the award or settlement on which the claim is based. The proceedings under Section 33-C (2) of the Act of 1947 are in the nature of execution and there has to be an enforceable order in that regard. Reference can be made to the judgment of the Supreme Court in the case of **Municipal Corporation of Delhi vs. Ganesh Razak and another, (1995) 1 SCC 235**. Relevant extract of the judgment is reproduced hereunder:-

“10. Next case on this point is Chief Mining Engineer, East India Coal Co. Ltd. v. Rameswar wherein the above decisions were relied on. It was held that the right to the benefit which is sought to be computed under Section 33-C(2) must be “an existing one, that is to say, already adjudicated upon or provided for”. The propositions on the question as to the scope of Section 33-C(2) deducible from the earlier decisions of this Court were summarised and they include the following, namely:

“(1) The legislative history indicates that the legislature, after providing broadly for the investigation and settlement of disputes on the basis of collective bargaining, recognised the need of individual workmen of a speedy remedy to enforce their existing individual rights and therefore inserted Section 33-A in 1950 and Section 33-C in 1956. These two sections illustrate cases in which individual workmen can enforce their rights without having to take recourse to Section 10(1) and without having to depend on their union to espouse their case.

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(3) Section 33-C which is in terms similar to those in Section 20 of the Industrial Disputes (Appellate Tribunal) Act, 1950 is a provision in the nature of an executing provision.

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(5) Section 33-C(2) takes within its purview cases of workmen who claim that the benefit to which they are entitled should be computed in terms of money even though the right to the benefit on which their claim is based is disputed by their employers. It is open to the Labour Court to interpret the award or settlement on which the workmen's right rests.

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(7) Though the court did not indicate which cases other than those under sub-section (1) would fall under sub-section (2), it pointed out illustrative cases which would not fall under sub-section (2), viz., cases which would appropriately be adjudicated under Section 10(1) or claims which have already been the subject-matter of settlement to which Sections 18 and 19 would apply.

(8) Since proceedings under Section 33-C(2) are analogous to execution proceedings and the Labour Court called upon to compute in terms of money the benefit claimed by a workman is in such cases in the position of an Executing Court, the Labour Court like the Executing Court in execution proceedings governed by the Code of Civil Procedure, is competent under Section 33-C(2) to interpret the award or settlement where the benefit is claimed under such award or settlement and it would be open to it to consider the plea of nullity where the award is made without jurisdiction.”

After stating the propositions, the decision proceeds to state as under:

“It is clear that the right to the benefit which is sought to be computed must be an existing one, that is to say, already adjudicated upon or provided for and must arise in the course of and in relation to the relationship between an industrial workman and his employer.”

11. **In Central Inland Water Transport Corpn. Ltd. v. Workmen**, it was held with reference to the earlier decisions **that a proceeding under Section 33-C(2) being in the nature of an execution proceeding, it would appear that an investigation of the alleged right of re-employment is outside its scope and the Labour Court exercising power under Section 33-C(2) of the Act cannot arrogate to itself the functions of adjudication of the dispute relating to the claim of re-employment.** Distinction between proceedings in a suit and execution proceedings thereafter was pointed out. It was indicated that the plaintiff's right to relief against the defendant involves an investigation which can be done only in a suit and once the defendant's liability had been adjudicated in the suit, the working out of such liability with a view to give relief is the

function of an execution proceeding. This distinction is clearly brought out in that decision as under:

“In a suit, a claim for relief made by the plaintiff against the defendant involves an investigation directed to the determination of (i) the plaintiff's right to relief; (ii) the corresponding liability of the defendant, including, whether the defendant is, at all, liable or not; and (iii) the extent of the defendant's liability, if any. The working out of such liability with a view to give relief is generally regarded as the function of an execution proceeding. Determination No. (iii) referred to above, that is to say, the extent of the defendant's liability may sometimes be left over for determination in execution proceedings. But that is not the case with the determinations under heads (i) and (ii). They are normally regarded as the functions of a suit and not an execution proceeding. Since a proceeding under Section 33-C(2) is in the nature of an execution proceeding it should follow that an investigation of the nature of determinations (i) and (ii) above is, normally, outside its scope. It is true that in a proceeding under Section 33-C(2), as in an execution proceeding, it may be necessary to determine the identity of the person by whom or against whom the claim is made if there is a challenge on that score. But that is merely ‘Incidental’. To call determinations (i) and (ii) ‘Incidental’ to an execution proceeding would be a perversion, because execution proceedings in which the extent of liability is worked out are just consequential upon the determinations (i) and (ii) and represent the last stage in a process leading to final relief. Therefore, when a claim is made before the Labour Court under Section 33-C(2) that court must clearly understand the limitations under which it is to function. It cannot arrogate to itself the functions—say of an Industrial Tribunal which alone is entitled to make adjudications in the nature of determinations (i) and (ii) referred to above, or proceed to compute the benefit by dubbing the former as ‘Incidental’ to its main business of computation. In such cases, determinations (i) and (ii) are not ‘Incidental’ to the computation. The computation itself is consequential upon and subsidiary to determinations (i) and (ii) as the last stage in the process which commenced with a reference to the Industrial Tribunal. It was, therefore, held in *State Bank of Bikaner and Jaipur v. R.L. Khandelwal* that a workman cannot put forward a claim in an application under Section

33-C(2) in respect of a matter which is not based on an existing right and which can be appropriately the subject-matter of an industrial dispute which requires a reference under Section 10 of the Act.”

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 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 the 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.*”

(emphasis supplied)

6. At this stage, learned counsel for the appellant submits that the Union of which the appellant is a member had earlier approached the Labour Court and there is an Award in its favour although inadvertently, the Award could not be brought on record earlier. He has furnished a copy of the Award dated 08.05.1998, which is taken on record.

7. Perusal of this Award indicates that the Labour Court had held that the demand had become infructuous in the light of recommendations of the 3rd Pay Commission having been implemented. It was only directed that the case of each workman be examined in the light of the instructions with regard to the payment of higher pay scale to skilled workers and this exercise had to be carried out within a period of three months. It is manifest that there

was no adjudication of the claim of the appellant at any stage whatsoever and, therefore, the Labour Court had proceeded erroneously under Section 33-C (2) of the Act of 1947 and the same is illegal and unsustainable. We are, therefore, in agreement with the judgment of the Single Bench in this regard.

8. Consequently, we do not find any manifest illegality in the impugned judgment warranting interference by this Court. The Letters Patent Appeal being devoid of any merit stands dismissed.

9. Pending application(s), if any, stands disposed of accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

11.02.2026

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No