

**(1983) 09 P&H CK 0005**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Writ Petition No. 5675 of 1976

M/S Industrial Cables (India) Ltd.

Rajpura

APPELLANT

Vs

The Presiding Officer (Shri H.S.

Ahluwalia) Labour Court Patiala

and Another

RESPONDENT

**Date of Decision:** Sept. 15, 1983

**Acts Referred:**

- Constitution of India, 1950 - Article 226, 227

**Hon'ble Judges:** Sukhdev Singh Kang, J

**Bench:** Single Bench

**Advocate:** Kuldip Singh, with Mr. G.C. Gupta, Mr. M.M. Kumar and Mr. V. S. Goni, for the Appellant;

**Judgement**

S.S. Kang, J.

This is a petition under Articles 226/227 of the Constitution of India for issuance of a writ of certiorari for quashing the order dated September 20, 1975 of the Labour Court, Patiala declaring that Darshan Kumar Respondent No. 2 was entitled to Rs. 532/- on account of bonus. It has been filed in the following circumstances:

2. M/S Industrial Cables (India) Ltd. Rajpura is a company registered under the Companies Act and is carrying on its manufacturing business at Rajpura. It is governed by the provisions of Industrial Disputes Act (for short "the Act") and Payment of Bonus Act (for short the "Bonus Act"). Pursuant to the different provisions of the Bonus Act, the Petitioner company declared and paid bonus at the rate of 8.33 per cent for the year 1973-74. In order to maintain harmonious industrial relations between the workers and the management, both of them entered into a settlement dated June 19, 1974 whereby it was agreed inter alia that the persons who were the employees of the Petitioner company on that date and had fulfilled certain other conditions, will be entitled to an additional sum as

ex-gratia payment. The Bonus Act, in the facts and circumstances of the case did not warrant any such payment. It was given only as an incentive to maintain industrial peace and healthy relations between the employer and the employees. Admittedly Darshan Kumar, Respondent No. 2 was not in the employ of the Petitioner-company on the date of this settlement. Consequently, he was not paid the additional ex-gratia payment. He filed an application u/s 33-C (2) of the Act before the Presiding Officer, Labour Court, Patiala and the same was allowed despite the objections raised by the Petitioner-company. It is not necessary to go into the details of the case set up by the Petitioner because the matter is squarely covered by my judgment in M/s Dalima Biscuits (P) Ltd., Rajpura v. The Presiding Officer, Labour Court, Patiala and Ors. (C.W.P. No. 6702 of 1975) decided on April 12, 1983, wherein I have held that a workman who was not in the service of the company on the date when the settlement was entered into, and whose case was not covered by the settlement was not entitled to maintain an application u/s 33-C(2) of the Act because such a workman has no subsisting right for computation of any bonus by the Labour Court u/s 33-C(2) of the Act. These proceedings are in the nature of execution proceedings and the Court cannot, while deciding such an application venture into an enquiry to determine the claim of the workmen and the liability of the employer. It was further held that the workmen had not been able to establish that they had any right to receive goodwill bonus stemming from any adjudication or which may have been otherwise duly provided. Simply because the other workmen who were serving the company on the date of settlement were given the good will bonus, will not confer any right to get goodwill bonus on other employees who were not in the service on that date. Such a claim can more appropriately be a subject matter of an industrial dispute. Section 22 of the Bonus Act specifically provides that any dispute regarding the payment of bonus is an industrial dispute and can be resolved on a reference u/s 10 of the Act. The application u/s 33-C (2) of the Act was not competent. The order of the learned Labour Court, dated September 20, 1975 is wholly without jurisdiction. The same is set aside, but there shall be no order as to costs.