

(2010) 04 P&H CK 0111

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Chief Engineer, Union Territory
and Others

APPELLANT

Vs

The Presiding Officer, Labour
Court and Another

RESPONDENT

Date of Decision: April 30, 2010

Acts Referred:

- Industrial Disputes Act, 1947 - Section 33C

Hon'ble Judges: Augustine George Masih, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Augustine George Masih, J.

Prayer in the present set of 12 writ petitions is for quashing of the Award dated 9.2.1989 passed by the Labour Court, U.T., Chandigarh which was passed on the 13 applications preferred by the workmen u/s 33-C(2) of the Industrial Disputes Act, 1947 (for short the Act), which were clubbed together and decided by a common Award.

2. Counsel for the petitioners has raised various arguments. He has stated that the respondent-workmen would not be entitled to the claim so made by them u/s 33-C(2) of the Act, on the ground that they although initially were work-charged employees but their services were regularized. After the regularization of their services, respondents-workmen were not entitled to continue in service beyond the age of 58 years as they having been brought on regular establishment which is governed by the instructions issued by the Government of India. Since the respondent-workmen were not on the work-charge establishment, the CPWD Manual Vol. III (1984 Edition) would not be applicable to their case. Although the respondent-workmen continued to work till attaining the age of 60 years and they were duly paid for the said period although they were entitled to work till the age of

58 years, they would only be entitled to counting of the period of service rendered by them till the age of 58 years and not beyond that. He contends that the reliance made by the Labour Court on the CPWD Manual Vol. III (1984 Edition) for granting the benefit of counting of service period rendered by them till the age of 60 years, is not in accordance with law and, therefore, the Award dated 9.2.1989 passed by the Labour Court U.T., Chandigarh deserves to be set aside.

3. Although the submission as made by the counsel for the petitioner appears to be quite justified but in the light of the fact that the applications by the respondent-workmen in the Award were preferred in the year 1987-1988 and the Award was passed in the year 1989, it can safely be said that the workmen would have by now reached the age of more than 80 years. At this stage, if these writ petitions are allowed, recoveries would have to be effected from the respondent-workmen of the excess amount paid to them by including two years of service which they had rendered beyond the age of 58 years for grant of pension.

4. During the pendency of the writ petitions, counsel who was representing the workmen, had expired and notices were issued to the respondents, which in most of the cases, have not been served as either the said respondents have expired or they are not residing at the given addresses in the writ petitions.

5. Keeping in view the fact that the respondent-workmen, who were lowly paid in the petitioner-Department and would have reached an age where if such recoveries are ordered to be effected, would put them to undue hardship and they may not be in a position to return the excess amount received by them, I am of the view that the matter does not call for any interference by this Court at this belated stage. Accordingly, the writ petitions stand dismissed.

6. A photocopy of this order be placed on the file of other cases.