

(2006) 05 P&H CK 0204

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Sohan Singh

APPELLANT

Vs

Presiding Officer and Others

RESPONDENT

Date of Decision: May 25, 2006

Acts Referred:

- Constitution of India, 1950 - Article 226, 227
- Industrial Disputes Act, 1947 - Section 10, 33C

Citation: (2007) 4 PLR 406

Hon'ble Judges: J.S. Narang, J; Arvind Kumar, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Arvind Kumar, J.

Petitioner has invoked the extraordinary jurisdiction of this Court under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari for quashing order 11.8.2003, Annexure P/1, dismissing his application u/s 33C(2) of the Industrial Disputes Act, 1947 (in short the Act).

2. It is the case of the petitioner-workman that he was working as driver with respondent No. 2-management in their Sugar Mill. He approached the management claiming benefits in terms of money on the basis of recommendations/report of the Wage Board as applicable to the respondent-industry through an application u/s 33-C(2) of the Act. Upon notice of the said application, reply was filed by respondent No. 2. Both parties led their respective evidence. On appreciation of evidence so put forward, the learned Labour Court vide order dated 11.8.2003 dismissed the application of the petitioner-workman. Hence, the present writ petition.

3. On issuance of notice of the writ petition, written statement has been filed by the respondent-management. A preliminary objection has been raised therein that the writ petition deserves to be dismissed on the ground of delay and laches as against

impugned order dated 11.8.2003 the petitioner has filed the present writ petition in January 2005, i.e. after a period of more than 1-1/2 years. On merits, it has been submitted that application u/s 33-C(2) of the Act was not maintainable as the basic liability was disputed since the petitioner wanted change of status from a fixed wage employee to a graded employee under the Central Wage Board.

4. We have heard the learned Counsel for the parties.

A proceeding u/s 33C(2) Act is a proceeding, generally, in the nature of an execution proceeding wherein the Labour Court calculates the amount of money due to a workman from his employer, or if the workman is entitled to any benefit which is capable of being computed in terms of money, the Labour Court proceeds to compute the benefit in terms of money. This calculation or computation follows upon an existing right to the money or benefit in view of its being previously adjudged, or, otherwise, duly provided for. In other words this provision applies where there is an enforceable existing right to receive a monetary benefit. In the instant case, the petitioner-workman is working as driver at a monthly salary of Rs. 1800/-. He wants that the recommendations of the Wage Board for Sugar Industries should be applied, entitling him a salary of Rs. 3,869/-. The stand of the management is that the petitioner-workman is a fixed wage employee engaged for a specific period. The recommendations of the Wages Board are not applicable to him. We are of the view that there requires a determination whether the recommendations of the Wages Board for Sugar Industries are applicable to him or not? However, this fact cannot be determined u/s 33C(2) of the Act *ibid* as the petitioner-workman has no pre-existing right. It is the subject matter to be decided in a reference u/s 10(1) of the Act and cannot be regarded as mere incidental to computation u/s 33C(2) of the Act.

5. The application of the petitioner-workman has rightly been dismissed by the Labour Court. No interference is called for. The present writ petition is accordingly dismissed.