Surajmal Mehta Vs Authority under Payment of Wages Act and Another

Miscellaneous Petition No. 31 of 1963

Court: Madhya Pradesh High Court

Date of Decision: March 25, 1964

Acts Referred:
Industrial Disputes Act, 1947 â€" Section 2, 25FF, 33C(1), 33D#Payment of Wages Act, 1936 â€" Section 15, 15(1), 2

Citation: AIR 1964 MP 312 : (1965) 11 FLR 215 : (1965) ILR (MP) 873 : (1965) JLJ 518 : (1965) 1 LLJ 274 : (1964) MPLJ 470

Hon'ble Judges: P.V. Dixit, C.J; K.L. Pandey, J

Bench: Division Bench

Advocate: G.M. Chaphekar and P.D. Pathak, for the Appellant; R.J. Bhave, Government Advocate, for the Respondent

Final Decision: Allowed

Judgement

Dixit, C.J.

This is an application under Articles 226 and 227 of the Constitution for the issue of a writ of certiorari for quashing an order dated 21st May

1963 of the Authority for Ujjain under the Payment of Wages Act, 1936, (hereinafter referred to as the Authority) overruling the petitioner''s

objection as to its jurisdiction, and for the issue of a writ of prohibition restraining the said Authority from entertaining and investigating an

application filed u/s 15 of the Act for a direction to the petitioner to pay to certain workers compensation u/s 25FF of the Industrial Disputes Act,

1947.

The matter arises thus. The Badnagar Electric Supply and Industrial Co., Ltd., Badnagar, having secured a licence from the Government of the

quondam Gwalior State, was doing business in the distribution of electric energy in that place. The Company''s licence was revoked by the

Madhya Pradesh Government and the undertaking was taken over by the M. P. Electricity Board on 1st October 1962. The petitioner was the

Managing Director of the Company.

When notice was given by the petitioner to the employees of the Company that their services were not required by the Company from 1st October

1962, some twenty employees of the Company made an application on 20th September 1962 to the Government Labour Officer, Ujjain, to take

necessary steps for securing to them the payment of ""notice pay and retrenchment compensation"". The Labour Officer asked the petitioner to

make "She payment demanded by the twenty employees, but the petitioner denied the liability of the Company to pay any compensation to the

employees.

Thereupon the Payment of Wages Inspector, Ujjain, filed an application on 7th February 1963, u/s 15 of the Act, before the Authority praying that

a direction be issued u/s 15(3) of the Act for payment to the aforesaid twenty employees ""notice pay and retrenchment compensation"" amounting

to Rs. 12,853.60 nP. or such sum as may be determined by the Authority.

The petitioner contested the claim made by the Payment of Wages Inspector inter alia on the grounds that the Authority had no jurisdiction to

determine whether the petitioner was liable to pay any compensation to the employees of the Company u/s 25FF of the Industrial Disputes Act;

that the jurisdiction of the Authority was limited to the recovery of an amount already ascertained by the Labour Court u/s 33C(2) of the Act of

1947; and that as the services of the employees claiming compensation had been taken over by 1he M. P. Electricity Board and had not been

interrupted on account of the transfer of the undertaking to the Board and as the terms and conditions of service applicable to them after the

transfer were not in any was less favourable than those applicable to them immediately before the transfer, they were not entitled to any

compensation. The Authority overruled the objection holding that it had jurisdiction to determine the liability of the petitioner for payment of

compensation u/s 25FF of the Industrial Disputes Act and that for giving jurisdiction to the Authority it was not necessary that there should have

been prior ascertainment by the Labour Court u/s 33C(2) of 1947 Act of the compensation claimed u/s 25FF of the said Act.

It was argued by Shri Chaphekar, learned counsel appearing for the petitioner, that u/s 15 of the Act the jurisdiction of the Authority was limited;

that Section 15 of the Act did not confer upon the Authority the power and jurisdiction to determine complicated questions regarding the liability of

the employer to pay compensation u/s 25FF of the Industrial Disputes Act, 1947; and that the Authority could, only order recovery of the

compensation determined by the Labour Court u/s 33C of the 1947 Act. It was said that the amount claimed by the employees was a benefit

capable of being computed in terms of money falling Under Sub-section (2) of Section 33C of the Industrial Disputes Act, and that, therefore, the

Labour Court alone had jurisdiction to adjudicate upon the question whether the person claiming compensation u/s 25FF was at all entitled to get

any and if so, the amount of compensation payable to him.

Learned counsel referred us to the decision of the Supreme Court in Punjab National Bank Limited Vs. K. L. Kharbanda, to support his

contention that the word ""benefit"" used in Section 33C(2) of the Industrial Disputes Act was not confined merely to non-monetary benefit which

could be converted in terms of money but was concerned with all kinds of benefits, whether monetary or non-monetary, claimed by a workman

under a settlement or award or under the provisions of Chapter VA of the Industrial Disputes Act, 1947.

The further argument of the learned counsel was that under the definition of ""wages"" given in Section 2(vi) of Payment of Wages Act, only that

sum, which by reason of the termination of the employment of the person employed was payable to the employee under any law, contract or

instrument providing for the payment of such sum but which did not provide for the time within which the payment was to be made, was included in

the term ""wages""; and that if time for the payment of such sum was fixed, then the sum claimed would not fall under the definition of ""wages"".

Learned counsel proceeded to say that as held by the Supreme Court in Anakapalla Co-operative Agricultural and Industrial Society Limited Vs.

Workmen, , the termination of services of an employee consequent upon the transfer of an undertaking did not in law amount to ''retrenchment'' u/s

2(oo) of the Industrial Disputes Act which defined ''retrenchment'' as meaning ""the termination by the employer of the service of a workman for any

reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action;"" and that if, therefore, in law there was no termination of

employment of any employee in HP undertaking when the undertaking was transferred, then it could not be said that the compensation claimed by

the employee u/s 25FF was ""any sum which by reason of the termination of employment of the person employed was payable"", falling under clause

(d) of Section 2(vi) of the Payment of Wages Act.

In reply, Shri Bhave, learned Government Advocate appearing for the respondents, did not dispute that u/s 33C(2) of the Industrial Disputes Act,

1947, the Labour Court had jurisdiction to determine the question whether the owner or management of a transferred undertaking is liable to pay

any compensation u/s 25FF of the Industrial Disputes Act to any employee claiming it and to determine the amount of compensation payable. He,

however, submitted that the compensation claimed by an employee on account of the transfer of an undertaking was a sum claimed by him by

reason of the termination of his employment falling within the definition of ""wages"" given in the Payment of Wages Act and the Authority under the

Act had also jurisdiction to adjudicate upon claims u/s 25FF of 1947 Act and to order the recovery of the amount of compensation determined by

it. ''

Learned Government Advocate said that there was a difference between the jurisdiction of the Labour Court u/s 33C(2) of the Industrial Disputes

Act and the jurisdiction of the Authority u/s 15 of the Payment of Wages Act, in that whereas u/s 33C(2) of 1947-Act the Labour Court could

only adjudicate upon the claim made by an individual worker u/s 25FF, the authority under the Payment of Wages Act had the power to determine

a claim made by the Payment of Wages Inspector on behalf of a number of employees collectively.

The question that falls for our determination turns on the true construction of Sections 25FF and 33-C of the Industrial Disputes Act and of

Sections 2(vi)(d) and 15 of the Payment of Wages Act, 1936. Before examining the relevant provisions of the Payment of Wages Act, it is

necessary to consider Section 25FF and Section 33C of the Act of 1947. Section 25FF, in so far as it "s material here, runs as follows:

Where the ownership or management of an under taking is transferred, whether by agreement or by operation of law, from" the employer in

relation to that undertaking to a new employer, every workman who has bean in continuous service for not less than one year in that (undertaking

immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of Section 25F, as if the workman

had been retrenched:

Provided ** ******* *

The proviso to Section 25FF sets out the conditions in which the section shall not be applicable to a workman in any case where there has been a

change of employers by reason of the transfer. The present Sections 25FF and 25FF were substituted for former Section 25FF by the Industrial

Disputes (Amendment) Act, 1957, as a result of the decision of the Supreme Court in Hariprasad Shivshankar Shukla Vs. A.D. Divikar, . In that

case, the Supreme Court held that as in its true sense "retrenchment" meant discharge of surplus labour, the discharge of a worker by reason of a

bona fide closure or by the transfer of an undertaking from one employer to another would not amount to retrenchment. Parliament, therefore,

intervened and provided by enacting Section 25FF that so long as an employer under the old management is continued in service by the new

management without any interruption in service and the terms and conditions of the service applicable to the workman after the transfer are not in

any way less favourable to him than those applicable to him immediately before the transfer, then the worker would not be entitled to any

compensation by reason of the transfer of business but if on the transfer of an undertaking a worker employed therein satisfies the condition

mentioned in the substantive part of Section 25FF he shall be entitled to notice and compensation in accordance with the provisions of Section 25F

as if the workman had been retrenched. The meaning and effect or Section 25FF has recently been ox- pounded by the Supreme Court in AIR

1963 SC 1189, thus--

The Solicitor-General contends that the question in the present appeal has now to be determined not in the light of general principles of industrial

adjudication, hut by reference to the specific provisions of Section 25FF itself. He argues, and we think rightly, that the first part of the section

postulates that on a transfer of the ownership or management of an undertaking the employment of workmen engaged by the said undertaking

comas to an end, and it provides for the payment of compensation to the said employees because of the said termination of their services,

provided, of course, they satisfied the test of the length of service prescribed by the section. The said part further provides the manner in which and

the extent to which the said compensation has to be paid. Workmen shall be entitled to notice and compensation in accordance with the provisions

of Section 25F, says the section, as if they had been retrenched. The last clause clearly brings out the fact that the termination of the services of the

employees does not in law amount to retrenchment and that is consistent with the decision of this Court in Hariprasad Shivshankar Shukla Vs.

A.D. Divikar, . The Legislature, however, wanted to provide that though such termination may not be retrenchment technically so-called, as

decided by this Court, nevertheless the employees in question whose services are terminated by the transfer of the Undertaking should be entitled

to compensation, and so, Section 25FF provides that on such termination compensation would be paid to them as if the said termination was

retrenchment. The words ""as if"" bring out the legal distinction between retrenchment defined by Section 2(oo) as it was interpreted by this Court

and termination of services consequent upon transfer with which it deals. In other words, the section provides that though termination of services

on transfer may not be retrenchment, the workmen concerned are entitled to compensation as if the said termination was retrenchment. This

provision has been made for the purpose of calculating the amount of compensation payable to such workmen; rather than provide for the measure

of compensation over again, Section 25FF makes a reference to Section 25F for that limited purpose, and, therefore, in all cases to which Section

25FF applies, the only claim which the employees of the transferred concern can legitimately make is a claim for compensation against their

employers. No claim can be made against the transferee of the said concern.

These observations make it very clear that the discharge from service of an employee in an undertaking by reason of the transfer of the undertaking

is not "retrenchment" in law, that is, "retrenchment" as defined by Section 2(oo) of the Industrial Disputes Act, 1947. The right to retrenchment

compensation u/s 25FF arises on account of the fiction created by the Use of the expression ""as if the workman had been retrenched"" in the said

section and not because" of any factual "retrenchment" such as would entitle the workman to claim compensation u/s 25F. A person discharged

from service consequent upon the transfer of an undertaking in which he was employed and claiming compensation u/s 25FF by reason of the

transfer cannot, therefore, be regarded as a person who has been retrenched, that is to say, as a person whose services have been terminated by

the employer for any reason whatsoever and who is thus a retrenched person within the meaning of Section 2(oo) of the Industrial Disputes Act,

1947.

Coming to Section 33C, this provision was considered by us in Bengal Nagpur Cotton Mills Ltd. Vs. State of Madhya Pradesh and Others, ,

where we held that --

Section 33C(1), therefore, deals with the recovery of an amount which has already been ascertained and not with the ascertainment of any

amount payable to the employee. The amount due to a workman from aft employer under a settlement or an award may be an ascertained amount.

But the same cannot be said of an amount due to him under the provisions of Chapter VA. This has to be determined in accordance with the

relevant provisions of Chapter V-A before the recovery of it can be ordered u/s 33C(1). Section 33C (1) no doubt says that the appropriate

Government, if satisfied that any money is due, shall issue a certificate for the recovery of that amount. But this satisfaction of the appropriate

Government is not for the purpose of the ascertainment of the amount. It is with regard to the question whether any ascertained amount payable to

the worker has or has not been paid to him, or whether any balance is still due to him.

This view was expressed on the basis of the decision of the Supreme Court in Kasturi and Sons (Private) Ltd. Vs. N. Salivateeswaran and

Another, , where Section 17 of the Working Journalists (Conditions of Service and Miscellaneous Provisions) Act, 1955, analogous to Section

33C of the Industrial Disputes Act, 1947, was construed as providing a procedure for the recovery of the amount due from an employer and not a

provision for the determination of the question as to what amount is due. It was thus held in Bengal Nagpur Cotton Mills Ltd. Vs. State of Madhya

Pradesh and Others, , that Section 33C (1) did not grant power to the Government to make an enquiry and determine the amount payable to a

worker as compensation under any provision of Chapter V-A of the Industrial Disputes Act. In B. N.C. Mills'' Case (Supra), we said that in that

case we were not called upon to decide the question as to the competent authority and the proper procedure to be followed for determination of

the amount of compensation payable to a workman u/s 25FFF. But we observed in passing that --

Sub-section (2) of Section 33C relates not to what is prima facie money due under a settlement or an award or under the provisions of Chapter

V-A, but concerns cases of any benefit which is capable of being computed in terms of money.

We must confess that this observation made by us by way of obiter is not now in accord with the view expressed by the Supreme Court in Punjab

National Bank Limited Vs. K. L. Kharbanda, . In that case, the Supreme Court has ruled that the word ""benefit"" used in Sub-section (2) of

Section 33C is not confined merely to non-monetary benefit which could be converted in term of money but is concerned with all kinds of benefits,

whether monetary or non-monetary to which a workman may be entitled and which has not already been calculated, for example, in ,an award

which confers on him the benefit, and that Sub-section (2) would apply for computation of such benefit if there is any dispute about it. The

Supreme Court observed in the case of Punjab National Bank Limited Vs. K. L. Kharbanda, , that --

Further, if we compare Sub-section (1) with Sub-section (2) of this section, it will appear that Sub-section (1) applies to cases where any money

is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA and that contemplates that the

amount is already computed or calculated or at any rate there can be no dispute about the computation or calculation; while Sub-section (2)

applies to cases where though the monetary benefit has been conferred on a workman under an award, it has not been calculated or computed in

the award itself, and there Is dispute as to its calculation or computation. It cannot, therefore, be said looking to the words used in Sub-section (2)

that it only applies to cases of non-monetary benefit which has to the converted in terms of money. It appears to us that it can also apply to

monetary benefits, to which a workman may be entitled which have not been calculated or computed, say, for example, in an award, and about

their calculation or computation there is dispute between the workman and the employer.

If, as held by the Supreme Court in the case of Punjab National Bank Limited Vs. K. L. Kharbanda, , Sub-section (2) of Section 33C comes into

play when a monetary benefit claimed by a workman under a settlement or an award or under the provisions of Chapter V-A has to be,

calculated, then the Labour Court specified by the Government has jurisdiction to determine the amount of compensation claimed by a workman

u/s 25FF and payable to him. A claim for compensation u/s 25FF is clearly a claim for monetary benefit under the provisions of Chapter VA of the

Industrial Disputes Act, 1947. It must be noted that u/s 33C(2) it is not every Labour Court functioning in the State that can determine the amount

of monetary or non-monetary benefit; but it is only the Labour Court specified in that behalf by the State Government that has the power to

compute the money value of the benefit. For the purpose of computing the money value of the benefit, the Labour Court can, as provided by Sub-

section (3) of Section 33C, appoint a Commissioner. The Commissioner is required to take such evidence as may be necessary and then submit a

report to the Labour Court and thereafter the Labour Court is required to determine the amount after considering the report of the Commissioner

and other circumstances of the case. When the benefit has been compute or calculated by the specified Labour Court, then the amount determined

by the Labour Court can be recovered as provided in Sub-section (1) of Section 33C of the Industrial Disputes Act.

8a. Turning now to the provisions of the Payment of Wages Act, 1936, Section 15 of that Act limits the jurisdiction and power of the Authority

under the Act to the determination of claims arising out of deductions from wages, or delay in the payment of wages, of persons employed or paid

in the area for which the Authority has been appointed u/s 15(1). The scope of this jurisdiction of the Authority has been explained by the Supreme

Court in Shri Ambica Mills Co. Ltd. Vs. S.B. Bhatt and Another, . In that case Gajendragadkar, J. (as he then was), delivering the judgment of the

Court, said that --

..... the only claims which can be entertained by the authority are claims arising out of deductions or delay made in payment of wages. The

jurisdiction thus conferred on the authority to deal with thess-two categories of claims is exclusive, for Section 22 of the Act provides that matters

which lie within the jurisdiction of the authority are excluded from the jurisdiction of ordinary civil courts. Thus in one sense the jurisdiction

conferred on the authority is limited by Section 15, and in another sense it is exclusive as prescribed by Section 22.

In dealing with claims arising out of deductions or delay made in payment of wages the authority inevitably would have to consider questions

incidental to the said matters. In determining the scope of these incidental questions care must be taken to see that under the guise of deciding

incidental matters the limited jurisdiction is not unreasonably or unduly extended. Care must also be taken to see that the scope of these incidental

questions is not unduly limited so as to affect or impair the limited jurisdiction conferred on the authority.

The Supreme Court pointed out in that case that no hard, fast or general rule could be laid down as a determining test for demarcating the field of

incidental facts which can be legitimately considered by the authority and those which cannot be so considered, and the question as to what are

questions incidental to the main question of delay or deduction in payment of wages in any particular case will depend on the circumstances of each

case.

Now, ""wages"", as defined in Section 2(vi) of the Payment of Wages Act, include ""any sum which by reason of the termination of employment of

the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without

deductions, but does not provide for the time within which the payment is to be made."" It is clear from this clause that what is included in the

definition of wages'' is the sum payable to a workman by reason of the termination of his employment. The words by eason of"" are important. They

signify and mean that what is included in the definition of ''wages'' is the sum which is payable to a workman because of the termination of his

employment. But, as we have endeavoured to explain earlier, the compensation paid to an employee u/s 25FF of the Industrial Disputes Act is not

any sum paid to him by reason of the termination of his employment. It is a sum paid to him by reason of the transfer of ownership or management

of the undertaking n which he is employed if he satisfies the test prescribed by that section and if his case does not fall under the proviso to Section

25FF of the 1947-Act. Section 25FF nowhere speaks of termination of employment of a workman. Where Section 25FF is attracted the

compensation payable to a workman is ""in accordance with the provisions of section 25F, as if the workman had been retrenched"". The right to

compensation u/s 25FF arises by virtue of the provisions of Section 25FF and by the fiction created by that provision and not because of any

termination of services as such of the employee. It will fee seen that u/s 25FF a workman is entitled to compensation thereunder even when he

continues in the employment of the new ownership or management, if the conditions stated in the proviso are not satisfied. As the compensation

paid to a workman u/s 25FF is not in law any sum paid to him by reason of the termination of his employment, then it follows that a claim to

compensation u/s 25FF is not any claim to wages as defined in Section 2(vi)(d) of the Payment of Wages Act. If this compensation does not fall

within the definition of ""wages"" under the Act, then clearly the Authority has no jurisdiction to entertain and determine, u/s 15 of the Act, any claim

in regard to it.

Even if the compensation payable u/s 25FF of the Industrial Disputes Act can be regarded as ""wages"" under the Payment of Wages Act, still on a

proper construction of Section 15(1) of the Payment of Wages Act and Section 33C(2) of the 1947-Act, the Authority under the Payment of

Wages Act has no jurisdiction to adjudicate upon the questions whether the workman claiming compensation u/s 25FF is entitled to it, and if so,

the amount that should be paid to him. Both the Industrial Disputes Act and the Payment of Wages Act are special Acts. The first Act relates to

the investigation and settlement of industrial disputes and provides for matters dealt with by various provisions of that Act. The Payment of Wages

Act is also a special Act because it only regulates the payment of wages to a certain class of persons employed in any industry and its main

purpose is to determine all claims of workman arising out of deductions from their wages or delay in their payment.

The provisions of both these Acts cannot be construed in a manner curtailing the operation of one Act oy the other. That construction of Section

33C(2) of the Industrial Disputes Act and Sections 2and 15 of the Payment of Wages Act must be adopted which would avoid repugnancy or

redundancy and which gives effect to both the enactments. In the absence of any indication in the aforesaid provisions of an intention that the

operation of Section 33C(2) is modified, restricted or derogated by the provisions of Sections 2(vi) and 15 of the Payment of Wages Act, these

provisions must be given a reasonable and sensible construction so as to allow the provisions of one Act to operate in its special field with out

trenching upon the special jurisdiction under the provisions of the other Act.

Bearing these principles of construction in mind, the limited jurisdiction given to the Authority u/s 15 of the Payment of Wages Act in regard to

claims arising out of deductions or delay made in the payment of wages cannot be extended so as to include the power to adjudicate upon a claim

u/s 25FF of the 1947-Act which the Labour Court is competent to determine u/s 33C(2) and (3) of that Act.

The main object of Section 15 of the Payment of Wages Act is to provide a speedy and summary remedy for enforcing payment of full wages in

cases where there has been a deduction in the wages or delay in the payment. Now, in connection with a claim for compensation u/s 25FF it is

necessary to determine whether the ownership or management of the undertaking concern ed has been transferred, and whether the workman

claiming compensation was in continuous service of the under taking for not less than one year immediately before the transfer. It may also be

necessary to decide whether the claim made by the warkman falls under the proviso to Section 25FF so as to disentitle him to any compensation.

The Supreme Court has indicated in paragraph 9 of the judgment in Anakapalla Co-operative Agricultural and Industrial Society Limited Vs.

Workmen, , the relevant facts and factors which must be taken into consideration for determining the applicability of Section 25FF to a particular

case. These questions cannot be regarded as incidental to the question, which the Authority u/s 15 of the Act is competent to decide, namely,

whether there has been a delay in the payment of compensation. They are the main questions which have to be decided before any direction can

be made against the quondam employer for payment of compensation. The question whether in any case Section 25FF is attracted is an industrial

matter and the decision thereon is an industrial adjudication. The Legislature has provided a special forum u/s 33C(2) of 1947-Act for the

adjudication of this industrial matter. Therefore the jurisdiction of the Authority u/s 15 of the Payment of Wages Act to determine these questions

falling u/s 33C(2) of the Industrial Disputes Act is ousted.

The essential difference between Section 33C(2) of the Industrial Disputes Act and Section 15 of the Payment of Wages Act lies not in the fact

that u/s 33C(2) the Labour Court can countenance a claim by an individual worker and u/s 15 of the Payment of Wages Act the worker as well as

the Inspector can make a claim for compensation on behalf of a number of workers but in the feature that whereas u/s 33C(2) a special court has

been expressly constituted for computation in terms of money any benefit claimed by a workman under the provisions of Chapter VA or under any

settlement or award, the jurisdiction of the Authority u/s 15 of the Payment of Wages Act is in general terms confined to the hearing and decision

of claims arising out of the deductions from wages or delay in the payment of wages.

In our opinion, if compensation claimed by a workman u/s 25FF of the 1947-Act falls within the definition of ""wages"" as given in Section 2(vi) of

the Payment of Wages Act, then the Authority constituted u/s 15 of the said Act can only make an order for the payment of compensation

determined by the Labour Court u/s 33C(2) of the 1947-Act when the Labour Court has not specified any time within which the payment is to be

made. Section 33C (1) of the Industrial Disputes Act, which speaks of recovery of money due from an employer, itself says that the mode of

recovery provided by that sub-section is without prejudice to any other mode of recovery. It is, however, clear that if, as we think, compensation

payable to a workman u/s 25FF does not fall within the definition of ""wages"" u/s 2(vi), then even its recovery cannot foe ordered by the Authority

under the Payment of Wages Act.

In the present case, the Authority appointed under the Payment of Wages Act relied on our decision in Ramcharan v. District Judge, Jabalpur, AIR

1962 Madh Pra 220, for holding that it had jurisdiction to entertain and adjudicate upon a claim u/s 25FF of the Industrial Disputes Act. That

decision does not lend any support to this conclusion. In that case, the petitioner claimed that he was in the service of Bombay Garage. Jabalpur,

for nearly 30 years and that his services had been terminated without paying him any compensation. The Authority under the Payment of Wages

Act rejectee, his petition holding that there was a dispute whether the workman was in the service of the aforesaid employer and whether his

services had been terminated, and, therefore, it had no jurisdiction to determine this dispute.

We held that the Payment of Wages Authority was not right in rejecting the application of the employee on the, grounds that it did. The question

whether the Authority had any jurisdiction at all to determine the amount of compensation u/s 25F of the Act of 1947 was not raised in that case.

Nor was it decided by us. The decision in Ramcharan Tiwari Vs. Dist. Judge and Others, , cannot, therefore, be read as laying down that the

Authority under the Payment of Wages Act has jurisdiction to determine the amount of compensation claimed by a workman u/s 25FF of the

Industrial Disputes Act.

A reference was made at the Bar to the decision, of the Mysore High Court in Ganga Prasad Jaiswal Vs. Chhotelal Jain, . In that case, it has been

held that even if retrenchment compensation payable under, Section 25F of the 1947-Act can be regard, ed as wages, as defined in Section 2(vi)

of the Payment of Wages Act, an order for payment can be made u/s 15 only when the retrenchment is not disputed, or is clearly indisputable; but

that if the basis of the claim as distinguished from its amplitude is itself impugned, and the dispute is about the foundational facia constituting such

basis which cannot be satisfactorily resolved in a summary enquiry, then the controversy falls outside the orbit of the enquiry authorised by Section

15 of the Payment of Wages Act.

Though the conclusion in the Mysore case is in line with our own conclusion in the case before us, the decision is not of much assistance here

because it does not deal with the question whether in view of the provisions of Section 33C(2) of the Industrial Disputes Act the Authority under

the Payment of Wages Act can at all adjudicate upon the claims of money made by a workman against an employer under a settlement or an

award or under the provisions of Chapter VA of the Industrial Disputes Act.

For the foregoing reasons, we are of the view that the Payment of Wages Authority for Ujjain has no jurisdiction to entertain and decide the

application filed by the Payment of Wages Inspector u/s 15 of the Payment of Wages Act for determination of the compensation payable to certain

employees of the undertaking transferred to the M. P. Electricity Board. The question-whether the workers are entitled to any compensation u/s

25FF can be determined by the specified Labour Court and until it is so determined, there can be ,no question of the issue of any direction to the

quondam employer for the payment of compensation.

The result is that this petition is allowed, the decision dated the 21st May 1963 of the Authority con stituted for Ujjain under the Payment of

Wages Act, 1936. is quashed, and the said Authority is resigned from proceeding with the application filed by the Payment of Wages Inspector u/s

15 of the Payment of Wages Act for a direction to the petitioner to pay to certain workers compensation u/s 25FF of the Industrial Disputes Act,

1947. In the circumstances of the case, we make no order as to costs of this petition. The outstanding amount of security deposit shall be re

funded to the petitioner.