

**(2011) 06 MAD CK 0452**

**Madras High Court (Madurai Bench)**

**Case No:** Writ Petition (MD) No. 5118 of 2005

The Management, South India  
Steel Corporation

APPELLANT

Vs

The Presiding Officer, Labour  
Court and E.M. Mohammed  
Hanifa

RESPONDENT

---

**Date of Decision:** June 20, 2011

**Acts Referred:**

- Industrial Disputes Act, 1947 - Section 10, 33C(2)

**Hon'ble Judges:** D. Hariparanthaman, J

**Bench:** Single Bench

**Advocate:** S. Seenivasagam, for the Appellant; No Appearance, for the Respondent

**Final Decision:** Dismissed

---

### **Judgement**

@JUDGMENTTAG-ORDER

D. Hariparanthaman, J.

The second Respondent filed C.P. No. 22 of 2000 before the first Respondent u/s 33C(2) of the Industrial Disputes Act, 1947. According to the second Respondent, he was employed as a Watchman in the writ Petitioner establishment from 03.08.1992. He was paid Rs. 1200/- as monthly salary. Since he reached 67 years, he sought retirement from 15.12.1999. 37 Workmen were employed in the writ Petitioner premises and 25 workmen were employed in their branch at Pettai. In total, there are 62 workmen employed by the writ Petitioner establishment. His grievance was that the other workmen were paid bonus every year at the rate of two months wages but he was paid only Rs. 500/-. Hence, he claimed bonus at the rate of 2 months wages for the years 1993-94, 1994-95, 1995-96, 1996-97 and 1998-99 in C.P. No. 22 of 2000 filed before the first Respondent u/s 33C(2) of the Industrial Disputes Act, 1947 (in short herein after referred to as "the Act"). The bonus due and payable to the Petitioner according to him is Rs. 11,400/-. He also claimed leave salary at the

rate of 15 days wages per year for the years 1998 and 1999. The leave salary comes to Rs. 1200. In total, the claim amount was Rs. 12,600/-. He also claimed 18% interest and cost.

2. The writ Petitioner filed a counter statement refuting the allegations made by the second Respondent. It was a simple denial.

3. Before the Labour Court, the Petitioner examined himself as a witness and documents Exs.P1 to P4 were marked on his side. The management examined the Manager on the side of the writ Petitioner and Exs.R1 & R2 were marked. After hearing both sides, the first Respondent/Labour Court passed an order, dated 24.02.2003, directing the writ Petitioner to pay Rs. 12,600/-with 9% interest from the date of filing of the claim petition to the date of the order passed in C.P. No. 22 of 2000 and thereafter, at 6% interest till the payment and awarded Rs. 200/-towards cost.

4. Heard the learned Counsel appearing for the Petitioner.

5. The learned Counsel appearing for the Petitioner has submitted that the second Respondent had No. pre-existing right to make a claim u/s 33C(2) of the Act and therefore, the Labour Court committed an error in computing the amount. That is, according to the learned Counsel for the Petitioner, the Labour Court exceeded its jurisdiction u/s 33C(2) of the Act. The learned Counsel for the Petitioner has further submitted that he could not claim bonus by filing 33 C(2) application and the same has to be adjudicated in a reference u/s 10 of the Industrial Disputes Act. He has also further submitted that since the second Respondent himself admitted that he was 67 years, when he left the service in the year 1999, the second Respondent is not entitled to claim bonus.

6. I have considered the submissions made by the learned Counsel appearing for the Petitioner and I have perused the affidavit and typed-set of papers and also the original records that has come from the Labour Court.

7. The second Respondent claimed that the other workmen were paid bonus at the rate of 2 months whenever the bonus was disbursed every year. According to the second Respondent, he was paid only Rs. 500/-. His grievance was that he was discriminated in the payment of bonus. The crux of the claim is that when the writ Petitioner declared bonus and paid bonus at the rate of 2 months wages to their work force, the same should be paid to him also.

8. According to the learned Counsel for the Petitioner, the second Respondent could not claim bonus u/s 33C(2) of the Act and the quantum of bonus has to be adjudicated in an Industrial dispute being raised by a collective body. That is, unless a dispute is being referred by the appropriate Government for determination of the bonus amount by a competent Labour Court/Industrial Tribunal and the amount is determined by the Labour Court/Industrial Tribunal, No. one could claim bonus by

filing 33 C (2) application.

9. It is not so in this case. In this case, the claim of the Petitioner is that bonus was declared by the writ Petitioner and also paid by the writ Petitioner at the rate of 2 months to all the workmen. Therefore, the second Respondent wanted the same to be paid to him also. Had the bonus not been declared and paid by the Petitioner to other workmen, the second Respondent could not maintain an application u/s 33C(2) of the Act claiming 2 months wages per years.

10. In order to prove his claim, the second Respondent filed an interim application in I.A. No. 96 of 2002 in C.P. No. 22 of 2000, seeking for a direction to the writ Petitioner to produce registers relating to disbursement of bonus for the claim period. The Labour Court allowed the application by an order 23.09.2002, but, the same was not produced. Taking adverse interference the claim of the second Respondent was allowed.

11. In these circumstances, I do not find any infirmity in the order of the Labour Court. The Labour Court did not adjudicate the bonus payable to the workmen in the Industry. On the other hand, the Labour Court had drawn adverse interference, as the bonus registers that have to be maintained under the bonus Act were not produced to ascertain as to the amount that was paid to other workmen. Hence, the claim was allowed.

12. The other contention of the Petitioner has No. force. The age of the workmen has nothing to do with the payment of bonus. Under the payment of Bonus Act, the age of the workmen is not referred to anywhere.

13. In fact Ex.W4 is the order of the authority under the payment of Gratuity Act, directing the writ Petitioner to pay gratuity payable to the second Respondent. This order attained finality. Like gratuity, the second Respondent is entitled to bonus also as given to other workmen.

14. I do not find infirmity in the impugned order, dated 24.02.2003. Therefore, the writ petition is dismissed. No. costs.