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**(1968) 03 BOM CK 0020**

**Bombay High Court**

**Case No:** Special Civil Application No. 846 of 1967

Shivaji Gulabrao Bhoite

APPELLANT

Vs

B.N. Biscuit  
Confectionery Works  
and Another

RESPONDENT

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**Date of Decision:** March 4, 1968

**Acts Referred:**

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

**Citation:** (1968) 2 LLJ 73

**Hon'ble Judges:** J.L. Nain, J; D.V. Patel, J

**Bench:** Division Bench

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### **Judgement**

Patel, J.

The petitioner in this case made an application to respondent 2, which is the first labour court, for recovery of overtime allowance from respondent 1 factory. The labour court, relying upon the decision of the Allahabad High Court in [Regional Conciliation Officer Vs. Kays Construction Company \(Private\) Ltd. and Another](#), held that overtime wages did not differ from earned wages and, therefore, the labour court had no jurisdiction to entertain the application under S. 33C(2) of the Industrial Disputes Act. Obviously, this decision is untenable in view of the decision of this Court in Special Civil Application No. 389 of 1967 rendered on 7 January, 1968 and the decision of the Supreme Court in [Chief Mining Engineer East India Coal Co. Ltd. Vs. Rameswar and Others](#). On this question, Sri John for respondent 1, has absolutely no answer.

2. He, however, tried to contend that there is no merit in the application and the applicant was absent. The only thing that can be said on this point is that the labour court did not dispose of the matter on merits or on the ground of absence of the applicant. It disposed it of only on the short point that the labour court has no jurisdiction to decide the matter where evidently it was wrong.

3. In the result, we set aside the order of the labour court and direct it to decide the matter on merits in accordance with law. As the application is of 1965, the labour court should hear and dispose of the matter within one month from the record and the order reaching it. The petitioner will get the costs from respondent 1.