
(1998) 09 J&K CK 0016
In the Jammu And Kashmir High Court
Case No : O.W.P. No. 4/83

Beacon Shyam Lal & Co.

APPELLANT

Vs

Presiding Officer

RESPONDENT

Date of Decision : 23-09-1998

Acts Referred:

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

Citation : (1999) KashLJ 10

Hon'ble Judges : T.S.Doabia, J

Bench : Single Bench

Advocate : Nemo, Nemo, Advocates appearing for the Parties

Judgement

1. The petitioner is aggrieved against an order passed by Industrial Tribunal/ Labour court, Srinagar. The petition was entertained under Section

33(C) (2) of the Industrial Disputes Act. The Tribunal came to the conclusion that the petitioner was entitled to gratuity and other benefits. So far

as the gratuity is concerned amount is Rs. 9900 Provident Fund amount is Rs. 2400. Bonus is Rs. 4050. Total amount is Rs. 16335. It is this

adjudication under Section 33(C)(2) of the above Act, which is subject matter of challenge in this petition.

2. On 11th of January 1983, the operation of the award was stayed.

3. The question arises as to whether the Tribunal had jurisdiction to entertain an application under Section 33(C)(2) of the Industrial Disputes Act

(1947). The Supreme Court of India in the case in State of Punjab Vs. Labour Court Jullundhar, AIR1979 SC 1981 has observed that provisions

of Section 33C(2) of the Industrial Disputes Act are not attracted to disputes arising under Payment of Gratuity Act. It was observed :

Upon all these considerations, the conclusion is inescapable that parliament intended that proceedings for payment of gratuity due under the

Payment of Gratuity Act must be taken under that Act and not under any other. That being so, it must be held that the applications filed under the

Industrial Disputes Act did not lie, and the Labour Court had no jurisdiction to entertain and dispose of them"".

4. In view of the above decision of the Supreme Court the Tribunal apparently had no jurisdiction. This petition is allowed. The respondents are

left free to approach other available forums. Petition is disposed of accordingly.