
(2011) 02 AHC CK 0161
In the Allahabad High Court
Case No : Writ C No. 33099 of 1998

Cawnpore Textiles Ltd.

APPELLANT

Vs

Ram Baran and Another

RESPONDENT

Date of Decision : 10-02-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C

Citation : (2011) 02 AHC CK 0161

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sibghat Ullah Khan, J.—Heard Sri C.B. Gupta learned Counsel for the petitioner and Sri B.N Rai, learned Counsel for workman Respondent No. 1.

2. This writ petition is directed against order dated 30.07.1998 passed by Presiding Officer labour court(V), U.P. Kanpur in Misc. case No. 21 of 1995 u/s 33C(2) of Industrial Dispute Act directing payment of Rs. 14500.32 by the Petitioner to Respondent No. 1 in addition to the amount which had already been paid to Respondent No. 2 as he had accepted V.R.S. Learned Counsel for the Petitioner has shown copy of a judgment delivered by me on 29.11.2010 in writ petition No. 22805 of 1998 M/s New Victoria Mills Kanpur v. The Presiding Officer and has contended that exactly same point is involved in this writ petition.

3. Entire judgment dated 29.11.2010 is quoted below:

Inspite of sufficient service no one has appeared on behalf of workmanRespondent No. 3 Ram Chander. Heard learned Counsel for the Petitioner. This writ petition is directed against order dated 27.2.1998 passed by Presiding Officer, Labour Court (V), U.P. Kanpur in Misc. case No. 75 of 1993 which was given u/s 33C(2) of Industrial Disputes Act, 1947. Contesting Respondent No. 1 had applied for voluntary retirement scheme (V.R.S.) and had received the requisite amount under the same. However, afterwards he claimed

that he had been under paid. The dispute was as to whether 26 days in a month or 39 days in one and half months should be calculated for the purposes of ex-gratia amount or it must be calculated for full 30 or 45 days. The case of the Petitioner was that the contesting Respondent was a daily wager hence only 26 working days in a month should be calculated. Through the impugned order difference of Rs. 11,843.41 was directed to be paid.

While accepting the V.R.S. no protest was lodged. Accordingly, after accepting the benefit under V.R.S. worker could not say that he had been under paid.

Secondly, there was a serious allegation of entitlement hence it could not be a subject matter of dispute u/s 33C(2) of I.D. Act. The argument of learned Counsel for the Petitioner that Respondent No. 3 was a daily wager hence he was not working for full 30 days in a month or 45 days in one and half month carries some force. However, no final opinion in this regard is expressed.

Moreover V.R.S. is a package. It is not complete monetary benefit including salary and all other allowances which the worker/employee might have received till his retirement. As the amount paid under V.R.S. is without work hence some curtailment from the entire amount payable till retirement is bound to be there.

Accordingly, writ petition is allowed. Impugned order is set aside.

4. I am satisfied that the matter is squarely covered by the said judgment.

Learned Counsel for the Respondent No. 1 has also not been able to distinguish the said judgment. Accordingly, writ petition is allowed and the impugned order is set aside.