

(2019) 07 GUJ CK 0157

In the Gujarat High Court

Case No : R/Special Civil Application No. 9561 Of 2015

DIVISIONAL CONTROLLER S.T.

APPELLANT

Vs

NIRMALSINH NATUBHA CHUDASAMA & 1 Other(S)

RESPONDENT

Date of Decision : 24-07-2019

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)
Constitution Of India, 1950 — Article 227

Citation : (2019) 07 GUJ CK 0157

Hon'ble Judges : G.R. Udhwani, J

Bench : Single Bench

Advocate : Gm Joshi, Y Rajyaguru

Final Decision : Allowed

Judgement

1. Order dated 25/12/2014 rendered in Recovery Application No.4 of 2010 by the Labour Court, Rajkot under Section 33C(2) of the Industrial Disputes Act, 1947 (for short the Act) is assailed in this petition under Article 227 of the Constitution of India.

2. From the rival submissions, the question which falls for consideration of this Court is as to whether the Labour Court had jurisdiction to adjudicate upon the disputed claims under Section 33C(2) of the Act.

3. The question arises in the light of the fact that the respondent No.1-workman availed of the medical aid with notified private Krishna Hospital with a cap of reimbursement of Rs.35,000/- as indicated in the GR dated 09/09/2005 adopted by the petitioner herein. However, it is required to be noted that the above said cap would not be applicable, if the treatment is taken in Government hospitals or the hospitals managed by the trust. Respondent No.1-workman incurred medical expenses in the sum of Rs.95,000/-. He applied for reimbursement which was sanctioned within limits of the cap above. Instead of raising the industrial dispute, the workman preferred to invoke jurisdiction of the Labour Court under

Section 33C(2) of the Act.

4. There is no serious dispute on the issue that a bill of not more than Rs.35,000/- could be reimbursed to a workman taking the treatment in the private hospitals.

5. The Labour Court exercised the jurisdiction under the above provision with the reasoning that there was no such cap; that the said amount was recommended by the Director of the Department and the medical bills are to be paid in terms of the settlement dated 21/01/1989 and that Krishna hospital was an approved hospital. It is thus evident that Labour Court embarked upon the adjudication which was not permissible as is clear from the explicit language of Section 33C(2) of the Act; for ready reference the said provision is reproduced hereunder:

"33C(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government; 1 within a period not exceeding three months:] 2 Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.]"

5.1 It is settled law that the powers under Section 33C(2) cannot be exercised for adjudication of the disputes; but only for the computation of the entitlement flowing from the settlement or award or some other legal document. The Labour Court however seems to have taken note of reimbursement policy in relation to medical treatment in public hospitals or hospitals run by the trusts, for adjudicating that there was no cap as above. Whether or not the two policies can be conjointly applied was matter of adjudication and not mere computation and therefore, computation on that basis was impermissible under Section 33C(2) of the ID Act.

5.2 At this stage, learned Counsel for the workman requested this Court not to enter into merits of the claim since the workman has been advised to raise an industrial dispute in that regard. While acceding to the said request, this Court prefers not to assign the reasons on the merits of the claim and leaves it open for him to raise the industrial disputes if so advised. Needless to say that if such dispute is raised and referred, would be decided in accordance with law.

6. In view of the above discussion, this Court is of the opinion that the impugned order was rendered in absence of the jurisdiction under Section 33C(2) of the Act and therefore; cannot be sustained. Accordingly, it is quashed and set aside. Rule is made absolute to the aforesaid extent only.