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**(2015) 05 P&H CK 0440**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 8752 of 2015**

Executive Engineer

APPELLANT

Vs

Presiding Officer, Industrial Tribunal and Others

RESPONDENT

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**Date of Decision :** 06-05-2015

**Acts Referred:**

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

**Citation :** (2015) 3 LLJ 461

**Hon'ble Judges :** Amit Rawal, J

**Bench :** Single Bench

**Advocate :** Suvir Kumar, for the Appellant

**Final Decision :** Dismissed

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## Judgement

Amit Rawal, J—The Management has approached this Court by challenging the order dated 9.7.2014 (Annexure P-1) whereby application of the respondent-workman filed under Section 33-C (2) of Industrial Disputes Act, 1947 (hereinafter called as "the Act") claiming a sum of Rs. 14985/- i.e. suspension allowance @ 75% for the period w.e.f. 1.6.1998 to 24.8.1999 as per the last drawn wages i.e. Rs. 1350/- per month and further interest at the rate of 6% per annum on the premise that the workman did not turn up for duty and remained absent on his own will and did not join duty therefore order of the Labour Court is erroneous and perverse and thus, not entitled to suspension allowance. He further submitted that in the previous round of litigation i.e. the application bearing No. 536/93 and 403/98 filed collectively, the tribunal has not considered the nature of dispute and rendered the decision based on the earlier decision as the nature of the dispute in the present case was not similar to the earlier cases. Therefore, the order is liable to be set aside. He further submitted that according to the decision which was referred under Reference No. 144 of 2000 whereby the Labour Court had awarded the workman/respondent No. 2 reinstatement and back wages from the year 1999 onwards. The said award was stayed by this Court on 14.2.2013 and therefore the workman was not entitled to suspension

allowance @ of 75% of the wages and the workman in the cross examination had admitted that he was working as Granthi and earning Rs. 4000/- and he was gainfully employed. I have heard learned counsel for the petitioner and perused the paper book.

2. It is a matter of record that the workman-respondent No. 2 had joined the petitioner-Management on 13.4.1987 as Road Roller Cleaner on work-charge basis and he was arrested on 30.12.1990 and released on bail on 14.5.1991. He submitted his joining report to the Management but did not report for duty. He filed applications bearing Nos. 536/93 and 403/98 IBID which have been decided in his favour and he was allowed suspension allowance upto 31.5.1998 and thereafter had been removed from service on 25.8.1999 without notice, charge sheet and enquiry, accordingly an application for recovery of suspension allowance for subsequent period i.e. 1.6.1998 to 24.8.1999 had been filed. The workman had not claimed suspension allowance of termination order except for the aforementioned period and he has statutory right for claiming suspension allowance from the date he was not paid suspension allowance till the date of termination. The orders passed in the aforementioned applications except Ex. W-4 and Ex. W-5 have attained finality, rightly so the Labour Court has ordered that the workman is entitled to suspension allowance @ of 75% on the wages of Rs. 1350/- per month for the period w.e.f. 1.6.1998 to 24.8.1999. The factum of admission by the workman during the cross examination that he was earning Rs. 4,000/- and performing the job of Granthi would not dis-entitle him for the suspension allowance. The award of the Labour Court is thus fair, legal and justified. No fault can be found with the award of the Labour Court. Accordingly the same is upheld. There is no merit in the writ petition. Accordingly the writ petition is dismissed.