
(2002) 04 AP CK 0105
In the Andhra Pradesh High Court
Case No : WA No. 36 of 1991

Executive Engineer, Penstock Fabrication and Erection
Division, Cuddapah and Others

APPELLANT

Vs

P. Seshagiri Rao and Others

RESPONDENT

Date of Decision : 11-04-2002

Acts Referred:

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

Citation : (2002) 3 ALD 516 : (2002) 3 LLJ 1

Hon'ble Judges : S.R.K. Prasad, J; S.R. Nayak, J

Bench : Division Bench

Advocate : Government Pleader for Irrigation, for the Appellant; K.R. Prabhakar, for S. Ramchandra Rao, for the Respondent

Final Decision : Allowed

Judgement

S.R. Nayak, J.—The Government of Andhra Pradesh represented by its Secretary, Irrigation and Power Department and other authorities in the said department have filed this writ appeal questioning the correctness of the order of the learned single Judge dated 10-7-1990 made in Writ Petition No.7902 of 1985 affirming the order of the Labour Court, Guntur dated 11-9-1984 made in Miscellaneous Petition No.77 of 1982. The respondents 1 to 51 herein filed the above MP No.77 of 1982 before the Labour Court u/s 33-C(2) of the Industrial Disputes Act, 1947 (for short "the Act") claiming the difference of wages in terms of G.O. Ms. No.242, Major Projects Department, dated 1-6-1977 with effect from 30-4-1976 consequent upon the issuance of G.O. Ms. No. 163, Irrigation (Projects-Wing) Department, dated 11-5-1982 extending the benefit of G.O.Ms.No.242, dated 1-6-1977 to the direct recruits working in the Penstock Fabrication and Erection Division, Cuddapah.

2. The facts leading to the filing of MP No.77 of 1982 before the Labour Court can be, briefly, noted as hereunder:

3. The Government issued G.O. Ms. No.242, dated 1-6-1977, which came into force from 30-4-1976, extending the pay scale to the NMR workers working in Srisailem Project on par with work-charged establishment employees. The said benefit was initially not extended to the direct recruits working in Penstock Fabrication and Erection Division, Cuddapah. Under those circumstances, the respondents 1 to 51 herein, on an earlier occasion, filed an application u/s 33-C(2) of the Act, but that application was dismissed by the Labour Court holding that G.O. Ms. No.242, dated 1-6-1977 is not applicable to them. Being aggrieved by the said order of the Labour Court, the respondent-workmen preferred WP No.6490 of 1979 before this Court and ultimately that writ petition was withdrawn by the respondents-workmen on an assurance made by the Government that the benefit of G.O. Ms. No.242, dated 1-6-1977 would be made applicable to them also. Subsequently, the Government issued G.O. Ms. No.163, dated 11-5-1982 extending the benefit of G.O. Ms. No.242, dated 1-6-1977 to the direct recruits working in Penstock Fabrication and Erection Division, Cuddapah. Subsequently, by an amendment of G.O. Ms. No.163, dated 11-5-1982, it was clarified that the direct recruits working in Penstock Fabrication and Erection Division, Cuddapah are entitled to the wages in terms of G.O. Ms. No.242, dated 1-6-1977 only with effect from the date of G.O.Ms.No.163, i.e., with effect from 11-5-1982. The respondents-workmen being aggrieved by the said action of the Government, filed MP No.77 of 1982 before the Labour Court, Guntur u/s 33-C(2) of the Act claiming the relief as already noticed above. The learned Labour Court opining that the rule "equal pay for equal work" is well established by the several pronouncements of the Apex Court and that the respondents-workmen, who are discharging similar work on par with other workers in Srisailem Project, thought it fit to allow the petition filed by the workmen. Accordingly, the Labour Court by its order dated 11-9-1984 allowed the petition and declared that the respondents-workmen are entitled to a total sum of Rs. 12,07,036.10 ps. and directed the Government and its authorities concerned to pay the same to the workmen with costs quantified at Rs.100/-.

4. The Government and its authorities being aggrieved by the said order of the Labour Court preferred Writ Petition No.7902 of 1985, which was disposed of by a learned single Judge. The order reads as follows:

"The NMR workers who were aggrieved by the conduct of the petitioners in not paying the amount as that was being paid to the other workers in the same unit filed an application u/s 33-C(2) of the Industrial Disputes Act. Originally, G.O. Ms. No.242, dated 10-6-1977 has been passed but that G.O. was applied only in the case of transferred employees, but not to persons that were directly recruited and working in the same Organization. The claim filed before the Labour Court has been dismissed. As against that, a writ petition has been filed, but that was withdrawn. The case of the respondents is that the writ petition was withdrawn on the assumption that the Government will consider their case also. This aspect also has been considered by the original authority and found that there is no res judicata and passed another G.O. Ms. No.163, dated 11-5-1982. After issuance

of the above G.O., the respondents herein filed an application u/s 33-C(2) of the Act stating that their claim from 1977 onwards should be considered and it was found that the others belonging to work-charged establishment working in the same unit are discharging similar type of work; therefore, they are entitled for equal pay for equal work, and that benefit was given to transfer employees and it ought to have been given to the direct recruits also. But, the Government considered their claim and passed the G.O. in the year 1982. However, they ought not to have rejected their claim for implementation from 1977 onwards. Basing on the latest judgment of the Supreme Court, this Court hold that what has been found by the Labour Court that respondents are entitled to pay Rs.12,07,036.10 ps. is correct. It is represented by the Government that in pursuance of the judgment and decree, they have deposited Rupees six lakhs and odd and only rupees four lakhs and odd has been paid by the advocate, Guntur. If the amount directed to be paid was not deposited and not accounted for by the advocate, Guntur, who took the responsibility, the workmen are entitled to take separate action against their advocates. With regard to the deposit of the remaining amount decreed, six months time has been granted.

With these directions, this writ petition is disposed of. No costs."

5. As could be seen from the order of the learned single Judge, none of the contentions, which were raised by the Government and the Governmental authorities before the Labour Court and reiterated in the writ petition were considered and decided. Hence, this writ appeal by the State Government and its authorities.

6. The learned Government Pleader for Irrigation, at the threshold, would contend that the Labour Court has exceeded its jurisdiction in allowing the application extending the benefit of G.O.Ms.No.242, dated 1-6-1977 to the respondents-workmen in terms of G.O.Ms.No.163, dated 11-5-1982, with effect from 30-4-1976. On the other hand, the learned Counsel for the respondents-workmen would support the order of the Labour Court and that of the learned single Judge.

7. Admittedly, G.O.Ms.No.163, dated 11-5-1982, is not brought into force with retrospective date. In that view of the matter, the said Governmental Order should be applied only with effect from the date of that G.O. and not with retrospective effect. In addition to this, the Government itself issued a clarification on 25-6-1982, which was marked as Ex.M7 before the Labour Court making it very clear that the respondents are entitled to the wages in terms of G.O.Ms.No.242 only with effect from 11-5-1982.

8. However, the learned Labour Court recording a finding that the duties and functions discharged by the respondents-workmen and those workmen, who are the beneficiaries under G.O. Ms. No.242, dated 1-6-1977, are similar and, therefore, the doctrine of "equal pay for equal work" would require the Government and Governmental authorities to pay the same wages to the

respondents-workmen also, allowed the petition filed u/s 33-C(2) of the Act and issued directions as noticed above.

9. The basic question that falls for consideration is whether such a power is available to the Labour Court exercising the jurisdiction u/s 33-C(2) of the Act?

Sub-section (1) and (2) of Section 33-C of the Act read as follows:

"(1) Whether any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter V-A or Chapter V-B, the workman himself or any other person authorized by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue :

Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any workman is entitled to receive from the employer any money or any benefits 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 within a period not exceeding three months;

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."

10. A careful reading of the provisions of sub-section (2) makes it very clear that an application can be made under that subsection only where any workmen 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 has to be decided by the Labour Court.

11. It is well settled that in an application u/s 33-C(2) of the Act, the Labour Court should not permit the applicants-workmen to establish their right to any money. In other words, the labour Court exercising the power u/s 33-C(2) of the Act can go into the money claims of the applicants in terms of the existing and

established rights. Section 33-C(2) is wider than Section 33-C(1). In this connection, the legislative intention disclosed by the language of these two subsections is fairly clear. Under sub-section (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 the benefit should be computed, the question has to be decided by the Labour Court. In *The Central Bank of India Ltd. Vs. P.S. Rajagopalan etc.*, , the Supreme Court noticed that sub-section (2) does not contain the words of limitation as used in sub-section (1) which deals with cases where any money is due under a settlement or an award or under the provisions of Chapter V-A. Thus a claim made under sub-section (1), by itself, could only be a claim referable to a settlement, award, or the relevant provisions of Chapter V-A. The three categories of claims mentioned in Section 33-C(1) fall u/s 33-C(2) and in that sense Section 33-C(2) could itself be deemed to be a kind of execution proceeding but it is possible that claims, not based on settlement, awards or made under the provisions of Chapter V-A, might also be competent u/s 33-C(2). Clarifying its earlier observation in *Punjab National Bank Limited Vs. K. L. Kharbanda*, the Supreme Court observed that the observations that Section 33-C is a provision in the nature of execution, should not be interpreted to mean that the scope of Section 33-C(2) is exactly the same as Section 33-C(1). This opinion was reiterated by the Supreme Court in *Bombay Gas Co. Ltd. Vs. Gopal Bhiva and Others*, . Later in *Kays Construction Co. (P) Ltd. Vs. State of Uttar Pradesh and Others*, a five-Judge Bench of the Supreme Court observed that the Section is divided into two parts. The first part deals with the recovery of "money due" to a workman under an award and the second part deals with a "benefit" computable in terms of money. Speaking for the Court, Hidayatullah, J., as he then was, pointed out:

"The contrast in two sub-sections between "money due" under sub-section (1) and the necessity of reckoning the benefit in terms of money before the benefit becomes "money due" under sub-section (2) shows that mere arithmetical calculations of the amount due are not required to be dealt with under the elaborate procedure of subsection (2), But the antithesis between "money due" and a "benefit which must be computed in terms of money" still remains, for the inquiry being made is not of the kind contemplated by sub-section (2) but is one for the satisfaction for the State Government under sub-section (1). It is verification of the claim to money within sub-section (1) and not determination in terms of money of the value of a benefit."

In *U.P. Electric Supply Co. Ltd. Vs. R.K. Shukla and Another, etc.*, C), the Supreme Court again stated the distinction between the two sub-sections as follows:

"The legislative intention disclosed by Section 33-C(1) and 33-C(2) is fairly clear. u/s 33-C(1) where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter V-A, the workman

himself, or any other person authorized by him in writing in that behalf, may make an application to the appropriate Government to recover the money due to him. Where the workman who is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money, applies in that behalf, the Labour Court may u/s 33-C(2) decide the questions arising as to the amount of money due or as to the amount at which such benefit shall be computed. Section 33-C(2) is wider than Section 33-C. Matters which do not fall within the terms of Section 33-C(1) may, if the workman is shown to be entitled to receive the benefits, fall within the terms of Section 33-C(2)."

12. Sub-section (2) of Section 33-C before its amendment by Amending Act of 1964 was confined only to "any benefit" computable in terms of money to which a workman was entitled from his employer in contradistinction to the words "any money is due to a workman from an employer" in sub-section (1) marked the distinction in the scope of jurisdiction under the two sub-sections. The language of the unamended sub-section (2) was vague as it did not specify as to under what circumstances the Labour Court could "determine" the "benefit" by computation in terms of money but the present subsection (2) clearly states that 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. Therefore, to invoke the jurisdiction of the Labour Court under the present Section 33-C(2) either of the two ingredients must be present. The first is that a workman must be entitled to receive from the employer any money or benefit which is capable of being computed in terms of money and the second one is that a question must have arisen as to the amount of money due, or as to the amount at which such benefit should be computed. A plain reading of Section 33-C(2) shows that the Labour Court has jurisdiction to decide both these ingredients. Thus, in a case where both these ingredients are satisfied or either of these ingredients is satisfied, the Labour Court will have the jurisdiction to determine the question. In other words, the Legislature has empowered the Labour Court to decide a dispute as to the right of workman to receive from the employer any money or any benefit which is capable of being computed in terms of money and also has authorized to decide the question as to the amount of money due as to the amount at which such benefit should be computed.

13. The scope of the jurisdiction of the Labour Court u/s 33-C(2) was considered by the Supreme Court in three leading cases. In Punjab National Bank Limited v. K.L. Kharbanda (supra), construing the words "any benefit which is capable of being computed in terms of money," the Apex Court held that where the benefit to which a workman may be entitled has not already been calculated, for example, in an award which confers on him the benefit, Sub-section (2) would apply for computation of such benefit if there is a dispute about it. Glossing on this holding, in Central Bank of India Limited v. P.S. Rajagopalan (supra), the Apex Court said that it should not be interpreted to mean that the scope of Section 33-C(2) is exactly the same as in Section 33-C(1) and further pointed

out that the three categories of claim mentioned in Section 33-C(1) fall u/s 33-C(2) and in that sense Section 33-C(2) can itself be deemed to be a kind of execution proceeding; but it is possible that claim not based on settlements, awards are made under the provisions of Chapter V-A, may also be competent u/s 33-C(2) and that may illustrate its wider scope. In other words, the Labour Court is acting u/s 33-C(2) is competent to entertain claims made da hors settlements, awards or the provisions of Chapter V-A. Section 33-C(2) takes within its purview cases of workmen who claim that the benefit to which they are entitled would be computed in terms of money, even though the right to the benefit on which their claim is based is disputed by their employers and it is open to the labour Court to interpret an award or settlement on which the workman's right rests. In this case, under the Shastri Award, the clerks of the Central operating adding machines were declared to be entitled to "special allowance" of Rs. 10/- per month. Four clerks had made a claim for computation before the Labour Court which was resisted by the bank on the ground that the clerks came within the category referred to in the award and that the Labour Court u/s 33-C(2) had no jurisdiction to determine whether the clerks came within the category or not. In this connection, it was held that the enquiry as to whether the four clerks came within the category was purely "incidental" and necessary for the purpose of giving relief asked for and, therefore, the Labour Court had jurisdiction to enquire whether the clerks answered the description of the category mentioned in the Shastri Award, which not only declared the right but also the corresponding liability of the employer bank as it took the view that this was purely a case of establishing identity of the claimants as coming within the distinguished category of clerks in default of which it would have been impossible to give relief to anybody falling in the category. The enquiry into the category of the employees was limited only to the clerks' identity and did not extend either to new investigation as to their rights or the Bank's liability to them, which had declared profit in the year and the Labour Court did not have to investigate the same. Essentially, therefore, the function of the Labour Court was in the nature of a function of a Court in execution proceedings. The Labour Court, therefore, had jurisdiction to determine by an incidental enquiry whether the four clerks came in the category which was entitled to a special allowance. In this connection the following observations are relevant.

"Therefore, in construing Section 33-C, we have to bear in mind two relevant considerations. The construction should not be so broad as to bring within the scope of Section 33-C cases which would fall u/s 10(1). Where industrial dispute arise between employees acting collectively and their employers, they must be adjudicated upon in the manner prescribed by the Act, as for instance, by reference u/s 10(1). These disputes cannot be brought within the purview of Section 33-C. Similarly, having regard to the fact that the policy of the Legislature in enacting Section 33-C is to provide a speedy remedy to the individual workmen to enforce or execute their existing rights, it would not be reasonable to exclude from the scope of this section cases of existing rights

which are sought to be implemented by individual workmen. In other words, though in determining the scope of Section 33-C, we must take care not to exclude cases which legitimately fall u/s 10(1) of the Act, for instance, cannot be brought within the scope of Section 33-C."

In *Bombay Gas Company Limited v. Copal Shiva* (supra), referring to the *Central Bank* case (supra), Gajendragadkar, J., stated that the proceedings contemplated by Section 33-C(2) are analogous to execution proceedings and the Labour Court, like the executing Court in the execution proceedings governed by the Code of Civil Procedure, would be competent to interpret the award on which the claim is based. In other words, the power of the executing Court is only to implement the adjudication already made by a decree and not to adjudicate a disputed claim which requires adjudication for its enforcement in the form of decree..

14. In *Chief Mining Engineer East India Coal Co. Ltd. Vs. Rameswar and Others*, on review of the above three decisions, speaking for a three-Judge Bench, Shelat, J., deduced the following eight propositions:

1. The legislative history indicates that the Legislature, after providing broadly for the investigation and settlement of dispute on the basis of collective bargaining, recognized the need of individual workmen of a speedy remedy to enforce their existing individual rights and therefore inserted Section 33-A in 1950 and Section 33-C in 1956. These two sections illustrate cases in which individual workmen can force their rights without having to take recourse to Section 10(1) and without having to depend on their union to espouse their case.

2. In view of this history two considerations are relevant while construing the scope of Section 33-C. Where industrial disputes arise between workmen acting collectively and their employers, such disputes must be adjudicated upon in the manner prescribed by the Act, as for instance, u/s 10(1). But, having regard to the legislative policy to provide a speedy remedy to individual workmen for enforcing their existing rights, it would not be reasonable to exclude their existing rights sought to be implemented by individual workmen. Therefore, though in determining the scope of Section 33-C care should be taken not to exclude cases which legitimately fall within its purview, cases which fall, for instance u/s 10(1), cannot be brought u/s 33-C.

3. Section 33-C which is in terms similar to those in Section 20 of the Industrial Disputes (Appellate Tribunal) Act, 1950, is a provision in the nature of an executing provision.

4. Section 33-C(1) applies to cases where money is due to a workman under an award or settlement or under Chapter V-A of the Act already calculated and ascertained and therefore there is no dispute about its computation. But subsection (2) applies both to non-monetary as well as monetary benefits. In the case of monetary benefit it applies where such benefit though due is not calculated and there is a dispute about its calculation.

5. Section 33-C(2) takes within its purview cases of workmen who claim that the benefit to which they are entitled should be computed in terms of money even though the right to the benefit on which their claim is based is disputed by their employers. It is open to the Labour Court to interpret the award of settlement on which the workmen's right rests.

6. The fact that the words of limitation used in Section 20(2) of the Industrial Disputes (Appellate Tribunal) Act, 1950 are omitted in Section 33-C(2) shows that the scope of Section 33-C(2) is wider than that of Section 33-C(1). Therefore, whereas sub-section (1) is confined to claims arising under an award or settlement of Chapter V- A claims which can be entertained under sub-section (2) are not so confined to those under an award, settlement or Chapter V-A.

7. Though the Court did not indicate which cases other than those under sub-section (1) would fall under sub-section (2), it pointed out illustrative case which could not fall under sub-section (2), namely, cases which would appropriately be adjudicated u/s 10(1) or claims which have already been the subject-matter of settlement to which Sections 18 and 19 would apply.

8. Since proceedings u/s 33-C(2) are analogous to execution proceedings and the Labour Court called upon to compute in terms of money the benefit claimed by a workman is in such cases in the position of an executing Court, the Labour Court, like the executing Court, in execution proceedings, governed by the CPC is competent u/s 33-C(2) to interpret the award or settlement where the benefit is claimed under such award or settlement and it would be open to it to consider the plea of nullity where the award is made without jurisdiction."

After stating these propositions, the Court further stated:

"it is clear that the right to the benefit which is sought to be computed must be an existing one, that is to say, already adjudicated upon or provided for and must arise in the course of and in relation to the relationship between an industrial workman and his employer. Since the scope of sub-section (2) is wider than that of Sub-section (1) and the sub-section is not confined to cases arising under an award, settlement or under the provisions of Chapter V-A, there is no reason to hold that a benefit provided by a statute or a scheme made thereunder without there being anything contrary under such statute or Section 33-C(2) cannot fall within subsection (2). Consequently, the benefit provided in the bonus scheme made under the Coal-Mines Provident Fund and Bonus Schemes Act, 1948 which remains to be computed must fall under Sub-section (2) and the Labour Court, therefore, had jurisdiction to entertain and try such a claim it being a claim in respect of an existing right arising from the relationship of any industrial workman and his employer."

Some of these decisions have again been reviewed by another three Judge Bench of the Court in *Municipal Corporation of Delhi Vs. Ganesh Razak and Another*, where, speaking for the Court, Verma, J., stated:

"The ratio of these decisions clearly indicates that where the very basis of the claim or the entitlement of the workman to a certain benefit is disputed, there being no earlier adjudication or recognition thereof by the employer, the dispute relating to entitlement is not incidental to the benefit claimed and is, therefore, clearly outside the scope of a proceeding u/s 33-C(2) of the Act, The Labour Court has no jurisdiction first to decide the workman's entitlement and then proceed to compute the benefit so adjudicated on that basis in exercise of its power u/s 33-C(2) of the Act, It is only when the entitlement has been earlier adjudicated or recognized by the employer and thereafter for the purpose of implementation or enforcement thereof some ambiguity requires interpretation that the interpretation is treated as incidental to the Labour Court's power u/s 33-C(2) like that of the executing Court's power to interpret the decree for the purpose of its execution."

15. In this case, the daily rated/casual workers of the Delhi Municipal Corporation had claimed the same pay as paid to the regular employees on the principle of "equal pay for equal work" because they were doing the same kind of work as the regular employees. The very basis of the claim was disputed by the Corporation as there was no earlier adjudication or recognition of the claim. As the dispute relating to entitlement is not incidental to the benefit claimed, it was held, it is outside the scope of the proceedings u/s 33-C(2) and that the Court has no jurisdiction first to decide the workman's entitlement and then to proceed to compute the benefits so adjudicated on the basis of its power u/s 33-C(2). The Court observed:

"It is only when the entitlement has been earlier adjudicated or recognized by the employer or thereafter for the purpose of implementation or enforcement thereof some ambiguity requires interpretation, that the interpretation is treated as incidental to the Labour Court's power u/s 33-C(2) like that of the executing Court's power to interpret the decree for the purpose of its execution."

If this is the position in law, the Labour Court ought not to have gone into the question whether the respondent-workmen have a right to receive wages on par with the work-charged establishment employees in terms of G.O.Ms.No.242, dated 1-6-1977 read with G.O.Ms. No.163, dated 11-5-1982 with effect from 30-4-1976. We say this because G.O.Ms.No.163, dated 11-5-1982 under which only the respondents-workmen can claim the benefits of G.O. Ms. No.242, dated 1-6-1977, was brought into force from 11-5-1982 and not with any retrospective effect muchless from 30-4-1976. If the respondents-workmen claim parity of wages for the period from 30-4-1976 to 11-5-1982 on the basis of doctrine of "equal pay for equal work," then, it is absolutely necessary for the workmen to establish that right in an appropriate proceeding envisaged under the Act. Such entitlement question can be decided by the labour Court or the concerned Industrial Tribunal u/s 10 of the Act and such a question cannot be decided in a proceeding u/s 33-C(2) of the Act, which is akin to an execution proceeding under CPC. In that view of the matter, we are of the considered opinion that the

Labour Court has exceeded its jurisdiction in allowing the petition of the respondents-workmen. In that view of the matter, the order of the learned single Judge also cannot be sustained.

16. In the result, the writ appeal is allowed. The impugned order of the learned single Judge is set aside. Writ Petition No.7902 of 1985 is allowed and the order of the Labour Court, Guntur dated 11-9-1984 made in MP No.77 of 1982 is quashed. However, this order shall not preclude the respondents-workmen from establishing their right to parity of wages with the work-charged establishment employees with effect from 30-4-1976 in terms of G.O. Ms. No.242, dated 1-6-1977 read with G.O. Ms. No.163, dated 11-5-1982 in an appropriate legal action and in accordance with law. There shall be no order as to costs.