
(2016) 04 P&H CK 0089
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 19235 of 2014.

Jagtar Singh

APPELLANT

Vs

Industrial Tribunal, Bathinda and Others

RESPONDENT

Date of Decision : 04-04-2016

Acts Referred:

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

Citation : (2016) 2 CLR 253 : (2016) 150 FLR 127

Hon'ble Judges : Rakesh Kumar Jain, J.

Bench : Single Bench

Advocate : Sukhmani Tiwana, Advocate, for the Appellant; Nitin Kaushal, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J. - This petition is directed against the order dated 05.02.2013 passed by the Industrial Tribunal, Bathinda (hereinafter referred to as the "Tribunal"), dismissing the application filed by the petitioner under Section 33-C(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act').

2. In short, the petitioner was appointed as Shop Assistant Grade-I in the Punjab State Civil Supplies Corporation on 28.09.1977 and his services were terminated on 07.08.1980. The petitioner raised an industrial dispute, which was declined vide award dated 07.05.1985 by the Labour Court in Reference No. 693 of 1982. The said award was challenged by him in CWP No. 375 of 1986, which was allowed on 15.01.2003, the award was set aside and the petitioner was held entitled to be reinstated in service with all benefits except back wages, for which he was granted liberty to file an application under Section 33-C(2) of the Act. Thereafter, the petitioner filed an application under Section 33-C(2) of the Act for recovery of Rs. 10,83,883/- with interest for the period from 12.08.1980 i.e. the date of termination of his services to 14.03.2004. The Tribunal dismissed the application on the ground that during this period, the petitioner did not perform

any work till he submitted his joining report on 15.03.2004, therefore, he was not entitled for the back wages.

3. At the time of notice of motion, it was contended on behalf of the petitioner that while leading evidence in the proceedings of the application filed under Section 33-C(2) of the Act, the petitioner made a statement that he remained unemployed. Although the back wages have been declined on the ground that he did not perform any work from the date of his termination i.e. 12.08.1980 till his joining on 15.03.2004 but at least certain percentage of back wages should have been granted as the petitioner became successful in the litigation and his reinstatement had been ordered by this Court.

4. In support of her submissions, counsel for the petitioner has relied upon a decision of the Supreme Court in the case of Shobha Ram Raturi v. Haryana Vidyut Prasaran Nigam Limited and others, 2015 (12) JT 86 and a judgment of this Court in the case of M.P. Jindal v. State Bank of Patiala and ors., 2013(2) SLR 251.

5. On the other hand, counsel for the respondents has submitted that the back wages cannot be allowed to the petitioner because it has been specifically declined by this Court in its order dated 15.01.2003 and Section 33-C(2) of the Act applies to computation of any benefit in terms of money. I have heard learned counsel for the parties and examined the available record.

6. Admittedly, while allowing CWP No. 375 of 1986 on 15.01.2003, the petitioner was held entitled to reinstatement into service with all benefits except back wages. He was also given liberty to file application under Section 33-C(2) of the Act in view of the law laid by the Supreme Court in the case of Managing Director, U.P. Warehousing Corporation and others v. Vijay Narayan Vajpayee, AIR 1980 SC 840.

Section 33-C(2) of the Act reads as under:-

"33C. Recoery of money due from an employer:-

(1) xxx xxx xxx xxx

(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 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.

7. A bare reading of the aforesaid provisions provides that if the workman is

entitled to receive from his 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 said question has to be decided by the Labour Court. However, the Tribunal did not decide computation of benefits in terms of money rather dismissed the application filed under Section 33-C(2) of the Act only on the ground that the petitioner is not entitled to the back wages because he did not perform any work during that period.

8. The question here in this case was not of back wages because the back wages had already been declined by this Court vide order dated 15.01.2003 but the petitioner was granted all the benefits, which were required to be computed in the proceedings initiated by the petitioner under Section 33-C(2) of the Act.

9. Consequently, I find merit in the submission made by the petitioner and hence, the present petition is hereby allowed, order dated 05.02.2013 passed by the Tribunal is set aside and the matter is remanded back to the Tribunal to re-decide the issue, as observed here-in-above, and if need be, the parties may be allowed opportunity to lead additional evidence as well in regard to computation of benefit, to which the petitioner may be entitled to in terms of money.

10. The parties are directed to appear before the Tribunal on 02.05.2016.