
(2011) 11 SHI CK 0239
In the High Court Of Himachal Pradesh
Case No : CWP No. 9929 of 2011-C

KDDL Ltd.

APPELLANT

Vs

Raj Kumar and others

RESPONDENT

Date of Decision : 21-11-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 33(1), 33C(2)

Citation : (2011) 11 SHI CK 0239

Hon'ble Judges : Sanjay Karol, J;Kurian Joseph, J

Bench : Division Bench

Judgement

Justice Kurian Joseph, C.J.—The writ petition is filed with the following prayers:

a) Issue a writ in the nature of certiorari quashing and setting aside the order dated 21.9.2011, passed in Application No. 5 of 2011, in reference petition titled as Raj Kumar vs. KDDL Ltd. by the Labour Court-cum-Industrial Tribunal, Shimla (Annexure P-6).

b) Direct respondent No. 2 to treat issue No.4 regarding maintainability of application u/s 33-C(2) of the Industrial Dispute Act, 1947 as a preliminary legal issue before adjudication of the application u/s 33-C(2) on merits.

2. According to the petitioner, an application u/s 33(1) of the Industrial Disputes Act, 1947 is pending before the Tribunal. No order u/s 33-C(2) can be passed. The reliance is placed on the judgment of the Supreme Court in State of U.P. & Anr. vs. Brijpal Singh, 2005 LLR 1191. It is for the petitioner to take all available legal and other contentions before the Tribunal, in which case, the Tribunal shall necessarily advert to those contentions as well and pass appropriate orders. In case, the petitioner is aggrieved by such order passed adverting to the contentions raised by him, it will be open to him to approach the appropriate Court.

3. With these observations, the writ petition is disposed of, so also the pending application(s), if any.