
(2019) 09 SC CK 0108

In the Supreme Court Of India

Case No : Civil Appeal No(S). 7218 Of 2019

Rai Bahadur Narain Singh Sugar Mills Ltd

APPELLANT

Vs

Mangey Ram

RESPONDENT

Date of Decision : 12-09-2019

Acts Referred:

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

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6(H)(2)

Citation : (2019) 9 SCC 365 : (2019) 2 SCC(L&S) 600

Hon'ble Judges : R. Banumathi, J;A.S. Bopanna, J

Bench : Division Bench

Advocate : Vineet Bhagat, Vishwa Pal Singh, Ronak Karanpuria, Surjeet Singh

Final Decision : Disposed Of

Judgement

A.S. Bopanna, J

(1) Leave granted.

(2) The Appellant-Sugar Mills is before us assailing the Order dated 06.08.2011 passed by the Labour Court in Misc.Case NO.42 of 2011 while taking note of a petition filed by the respondent under Section 33-C(2) of the Industrial Disputes Act.

(3) The genesis of the case for the said petition being filed under Section 33-C(2) of the I.D. Act before the Labour Court is that Labour Court at the first instance in the proceedings bearing Adjudication Case NO.64/1996 had passed an award and ordered that the termination order dated 07.12.1994 against the respondent by the appellant herein was not proper and legal. Accordingly, it was ordered that the respondent herein be reinstated into service during the up-coming crushing season. As far as payment of back-wages is concerned, it was quantified at Rs.5,000/-, as compensation. With regard to the intervening wages during which the writ petition was pending, it was ordered that the respondent herein is relegated to the employer before whom he shall make a representation in that

regard. The said order insofar as the said direction has attained the finality.

(4) The respondent instituted a petition under Section 33-C(2) of I.D. Act seeking for payment of wages subsequent to the Award dated 10.06.1997 since reinstatement was not made. Labour Court vide Order dated 06.08.2011 allowed the said application and directed the appellant herein to pay the wages from the date of Award i.e. 10.06.1997 up to the date on which respondent joined the service.

(5) The contention on behalf of the respondent is that the said amount as ordered by the Labour Court is payable. However, what we notice is that the appellant herein had approached the High Court of Uttaranchal at Nainital in Civil Misc. Application NO.4169 of 2001 (Old No.6958 of 1998) assailing the Award dated 10.06.1997. In the said proceedings, the High Court having taken note of the order of the Labour Court confirmed the Award dated 10.06.1997 insofar as the reinstatement is concerned.

(6) In that view the only question for consideration is with regard to the validity or otherwise of the order passed by the Labour Court dated 06.08.2011 under Section 33-C(2) of the I.D. Act quantifying and directing payment of amount subsequent to the date of the Award dated 10.06.1997. In that regard we have already taken note that the matter was pending before the High Court subsequent to the Award dated 10.06.1997 and the High Court while ultimately disposing of the writ petition had in that regard directed that the payment of the wages for the period when the writ petition was pending is a matter to be considered by the employer.

(7) Pursuant to the Award dated 10.06.1997 respondent has been reinstated by order dated 26.07.2005. The respondent made representation before the appellant claiming wages for the intervening period. By order dated 26.07.2005 the appellant rejected claim of the respondent for the wages for the intervening period on the principle of 'no work, no pay'. The same would stand answered by the order of the High Court in C.M.A. No.4169/2001.

(8) When the matter of payment of wages from 1995 to 2005 was left to the decision of the employer, the wages as ordered by the Labour Court in the proceedings under Section 33-C(2) of the I.D. Act would not be justified. Since the High Court had directed that the appellant herein shall consider the representation of the respondent for wages for intervening period, the consideration in that regard was necessary to be made by the appellant and the order of the Labour Court dated 06.08.2011 is unsustainable. In *Municipal Corporation of Delhi v. Ganesh Razak and Anr.*, (1995) 1 SCC 235, it was held by this Court as under:

"12. The High Court has referred to some of these decisions but missed the true import thereof. The ratio of these decisions clearly indicates that where the very basis of the claim or the entitlement of the workmen 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 the proceeding under Section 33-C(2) of the Act. The Labour Court has no jurisdiction to first decide the workmen's entitlement and then proceed to compute the benefit so adjudicated on that basis in exercise of its power under Section 33-C(2) of the Act. It is only when the entitlement has been earlier adjudicated or recognised 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 under Section 33-C(2) like that of the Executing Court's power to interpret the decree for the purpose of its execution."

Likewise the scope of Section 6(H)(2) of the U.P. Industrial Disputes Act, 1947 is also limited to calculation of monetary benefits where right has already been adjudicated.

(9) However, at this stage since sufficient time has elapsed an exercise to remit the matter to the employer to reconsider these aspects of the matter would not be necessary as we are informed that pursuant to the order passed by the Labour Court an amount of Rs.10,00,000/- was deposited as an interim measure pending consideration on these aspects and the respondent has already withdrawn a sum of Rs.6,00,000/- (Rupees Six Lakhs) out of the same.

(10) Therefore, in the interest of justice, we direct that the said amount of Rs.6,00,000/- (Rupees Six Lakhs) withdrawn by the respondent herein would stand in compliance of all wages that are payable to the respondent subsequent to the Award dated 10.06.1997 till actual reinstatement and the matter shall rest at that. The amount of Rs.4,00,000/- (Rupees Four Lakhs) which is available in deposit shall therefore be withdrawn by the appellant herein. Since the deposit before the Labour Court was credited in a fixed deposit to enure interest, the entire accrued interest on the deposit shall be paid to the respondent and only the amount of Rs.4,00,000/- (Rupees Four Lakhs) shall be returned to the appellant herein.

(11) The appeal shall stand disposed of in the above terms.

(12) At this stage, learned counsel for the respondent submits that the respondent has been terminated subsequently and he has raised a dispute with regard to the same. It is made clear that the same would be considered and decided separately and all the contentions are left open to be raised at the appropriate stage and the decision in the case on hand shall not be an impediment for consideration of the rights of the parties.