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**(1988) 09 P&H CK 0011**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : C.W.P. No. 6864 of 1986**

Rajinder Parshad

APPELLANT

Vs

Labour Court and Another

RESPONDENT

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**Date of Decision :** 21-09-1988

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (1989) 59 FLR 405 : (1989) 2 ILR (P&H) 40 : (1995) 3 LLJ 808

**Hon'ble Judges :** K.S. Bhalla, J;G.C. Mital, J

**Bench :** Division Bench

**Advocate :** V.S. Sahni, for the Appellant; R.S. Mittal and P.S. Bajwa, for the Respondent

**Final Decision :** Dismissed

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## Judgement

K.S. Bhalla, J.—A short point calls for determination in this writ petition whether a person after taking benefit under an award, passed by the Labour Court, by accepting monetary compensation, is entitled to challenge the said award, as a whole, after expiry of reasonable time?

2. Relevant facts of the case lie in a narrow compass. Petitioner Rajinder Parshad was employed as Head Doffer with M/s. Mohan Spinning Mills, Rohtak, respondent No. 2, since June, 1967. His services were terminated vide order dated 31st August, 1984. According to the management he had committed a major misconduct resulting in large scale indiscipline in the work force. Petitioner workman on the other hand, contended that he was wrongfully dismissed by way of victimisation, as he had started taking active part in trade union activities. It is further contended on his behalf that he had become joint secretary of the Cotton Textile Workers" Union. After termination of his services, petitioner served a demand notice under the Industrial Disputes Act on the management of respondent No. 2. The same having not been accepted, the dispute was referred to the Labour Court, Rohtak, u/s 10(1)(c) of the Industrial Disputes Act, 1947, for adjudication whether the termination of services of Shri Rajinder Parshad

were justified and in order. The Presiding Officer, Labour Court, Rohtak, after recording evidence of the parties, vide its award dated 29th July, 1986 (Annexure P- 6) held that under the peculiar circumstances of the case, the management was fully justified in not holding domestic enquiry against the petitioner before dispensing with his services and that from the evidence on record it has been fully proved that petitioner indulged in major misconduct in striking work on 30th August, 1984. Consequently, reinstatement of the petitioner was not ordered although to mitigate the hardship he was awarded a sum of Rs. 7,000 as compensation purely on compassionate grounds. The award of Labour Court, Rohtak, has been assailed by petitioner Rajinder Parshad through present writ petition and an order of reinstatement with continuity of service and full back wages has been sought.

3. Before going into the merits of the case, a preliminary objection has been raised on behalf of respondent No. 2 contending that the petitioner accepted the amount of Rs. 7,000 awarded by way of compensation on compassionate grounds on 16th October, 1986, in full and final settlement of his claim and executed receipt exhibit R-2/1 and that for said reason petitioner having accepted the award cannot now challenge the same by means of the present writ petition.

4. There appears to be force in the preliminary objection raised on behalf of the management. Award, Annexure P-6, was given by the Labour Court on 29th July, 1986, and it was published in the Official Gazette on 23rd September, 1986. Within one month of its publication on 16th October, 1986, the amount of compensation was received by the petitioner as per receipt of the said date annexure R-2/I which runs as under:-

"In accordance with the award of the Labour Court dated 29th July, 1986, published in Haryana Government Gazette at p.26-29 on 23rd September, 1986, I have received a sum of Rs. 7,000 vide cheque No. 108169, dated 16th October 1986, issued in favour of Rohtak Central Bank of India, Rohtak. The award has been fully implemented.

Sd/- (Rajinder Parshad) 16th October, 1986"

5. The last sentence of this document, i.e., receipt clinches the matter and the entire subject of dispute stood closed by it. In the light thereof, when the petitioner completely submitted to the award he is no longer competent to assail the same through this petition and that too after a lapse of more than two months. He cannot possibly avail the benefit given to him under the award and at the same time challenge its operation so far as it works against him. This conclusion of ours finds support from *Jayant Nath Mazumdar v. State of West Bengal* (1986) LIC 1399 wherein it has been held that where the workman whose services were terminated by the employer and awarded a lump sum by the Industrial Tribunal as compensation instead of directing his reinstatement, the workman after taking benefit under the award by accepting the monetary

compensation, cannot challenge the award at a subsequent stage even if it is held that the view taken by the Tribunal was erroneous. It was further observed therein that the workman was not entitled to any relief in the writ petition filed by him challenging the award of the Tribunal. The petitioner thus has become disentitled from assailing the award by his own conduct, and we are not inclined to exercise extraordinary writ jurisdiction in the given facts and circumstances of the case.

6. The result is that preliminary objection holds good and the writ petition in hand is dismissed but without making any order for costs.