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**(2004) 11 AHC CK 0019**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 22896 of 1991

Ramala Sahkari Chini Mills Ltd.

APPELLANT

Vs

Deputy Labour Commissioner and Others

RESPONDENT

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**Date of Decision :** 29-11-2004

**Acts Referred:**

Uttar Pradesh Industrial Disputes Act, 1947 — Section 4K, 6H(1), 6I

**Citation :** (2005) 5 AWC 4022 : (2005) 1 UPLBEC 1015

**Hon'ble Judges :** Rakesh Tiwari, J

**Bench :** Single Bench

**Advocate :** S.R. Misra and M.C. Chaturvedi, for the Appellant; V.S. Chauhan, C.S.C., for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Rakesh Tiwari, J.—Heard Counsel for the parties and perused the record.

2. This writ petition has been filed by the Ramala Sahkari Chini Mills Ltd., Meerut for quashing the recovery Certificate/Order dated 3.4.1991 (Annexure 5 to the writ petition) issued by the Deputy Labour Commissioner (respondent No. 1) on the ground that proceedings for calculation and settlement of accounts are still pending.

3. Briefly stated the facts of the case are that Shri Omvir Singh Malik (respondent No. 2) claimed Clerical Grade-I in the establishment of the Mills w.e.f. 1.2.1985. The alleged dispute with regard to the claim of Clerical Grade-I was referred to the Industrial Tribunal-V at Meerut by the State Government u/s 4-K of the U.P. Industrial Disputes Act, 1947.

4. The Labour Court by its award dated 12.11.1990 given in Adjudication Case No. 16/86 held that respondent No. 2 Shri Omvir Singh Malik was entitled to the designation of Clerk (Grade-I) w.e.f. 1.2.1985. The operative part of the award is as under :--

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5. Pursuant to the award, the workman filed an application before the Deputy Labour Commissioner, Meerut Region, Meerut u/s 6-H (1) of the U.P. Industrial Disputes Act, 1947 for implementation of the award in Adjudication Case No. 16/86.

6. The petitioner has relied upon Annexure 1, a note dated 27.11.1990 alleged to be executed by respondent No. 2 Shri Omvir Singh Malik as Head Time Keeper which is as under :--

"Adjudication No. 16/86 has been decided in my favour and as per award of Industrial Tribunal-I back wages given to me since 1.2.1985 but as per the direction of the Mill Management I left my back wages upto September; 1990. .

Sd/- Omvir Singh Malik, H.T.K. 27.11.1990."

7. The Counsel has further relied upon the agreement alleged to have been arrived at between the authorized representative of the petitioner and respondent No. 2-workman on 8.1.1991, which is appended as Annexure 2 to the writ petition. The terms of the said compromise are as under :--

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2& ;g fd Jfed okn la[;k 16@1986 esa nh x;h fnukad 1-2-85 ls 30-8-90 rd dk osru NksM+ jgs gSaa A

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8. A perusal of Annexure 2 also shows that a compromise was arrived at between the parties pursuant to Adjudication Case No. 16/86 and the workman had foregone his wages for the period 1.8.1985 to 30.8.1990 settling the dispute finally. This settlement appears to have been submitted before the Deputy/Labour Commissioner, Meerut Region, Meerut.

9. It appears that in the mean time before the aforesaid agreement was executed Shri Omvir Singh Malik, respondent No. 2, moved an application before the Labour Court to the effect that he was entitled to receive a sum of Rs. 12,350/- from the petitioner. An objection was filed by the petitioner to the aforesaid application on the ground that respondent No. 2 had backed out from the agreement and as per the award he was entitled to get only Rs. 616/- upto 31.8.1987 and so far as the payment after August, 1987 was concerned the respondent-workman had initiated proceedings for the claim before the Labour Court-II that he was entitled to the Supervisory B Grade which was pending before it.

10. The main ground of contention of the Counsel for the petitioner in this writ petition is that in view of the agreement between the petitioner and the respondent-workman there was no occasion for issuance of recovery certificate and the application u/s 6-H (1) of the U.P. Industrial Disputes Act, 1947 was liable to be rejected.

11. Admittedly, the Industrial Tribunal-V gave an award in favour of the workman and he had a legal right to get the award implemented u/s 6-H (1) of the U.P. Industrial Disputes Act, 1947. A perusal of Annexure 1 to the writ petition quoted above would show that he is leaving his back wages as per direction of the Mill Management and not on his own accord. The note, therefore, has no binding effect on him. It is a clear indication that it was written under compulsion. Even otherwise a perusal of Annexure 2 quoted above would clearly establish that the alleged agreement between the petitioner and respondent No. 2 was not registered before the Deputy Labour Commissioner as required u/s 6-I of the U.P. Industrial Disputes Act, 1947. Sending a copy to the Deputy Labour Commissioner, Meerut does not amount to settlement being registered by the Deputy Labour Commissioner. It further appears from the record that the petitioner has not challenged the award in the instant writ petition which has

become final. The workman has been granted Clerical Grade I to him w.e.f. 1.2.1985. The dispute whether the concerned workman is entitled to any amount of wage difference from September, 1987 as per the award on the basis of his claim was subject matter of adjudication in Adjudication Case No. 134/90 before the Labour Court-II regarding supervisory grade w.e.f. September, 1987. The Counsel for the petitioner has candidly stated that he does not know about the fate of Adjudication Case No. 134/1990. It must have been decided by now during the last 14 years.

12. No interim order was granted in the writ petition at the time of admission. The recovery might have been made from the petitioner u/s 6-H (1) of the U.P. Industrial Disputes Act.

13. For the reasons stated above, this writ petition is dismissed. No order as to costs.

14. It is, however, provided that in case the recovery has not been made, the Deputy Labour Commissioner shall recover the amount payable to the respondent-workman with interest from the employers within a period of two months from the date of production of a certified copy of this order. The amount so recovered by the Deputy Labour Commissioner from the petitioner shall be paid to respondent No. 2 within a further period of one month after adjusting any amount which has already been paid to him in pursuance of the award in Adjudication Case No. 16/86.