

(1962) 08 BOM CK 0008

In the Bombay High Court

Case No : Special Civil Application No. 346 of 1961

Ramkrishan Ramnath Bidi Manufacturing, Kamptee

APPELLANT

Vs

Labour Court, Nagpur

RESPONDENT

Date of Decision : 25-08-1962

Acts Referred:

Industrial Disputes Act, 1947 — Section 25, 25C, 25F, 3, 7(1)

Citation : (1963) 1 LLJ 417

Hon'ble Judges : N.L. Abhyankar, J;D.G. Palekar, J

Bench : Division Bench

Judgement

Palekar, J.—This is a petition under Articles 226 and 227 of the Constitution for writs of certiorari and prohibition. The petitioner is Ramkrishan Ramnath Bidi Factory at Kamptee. Respondent 1 is the presiding officer, labour court, at Nagpur, and respondent 2 is a bidi-binder of Kamptee.

2. The bidi-factory was closed from 1 July, 1958 to 9 August, 1958 and thus bidi-workers were out of employment for that period. After the factory was reopened on 10 August, 1958, all the employees, including respondent 2, were reemployed.

3. On 7 March, 1961, respondent 2 filed an application before respondent 1 purporting to be one under S. 33C(2) of the Industrial Disputes Act, 1947. Respondent 2 alleged that as a consequence of the closure of the factory, the workers including herself were retrenched and hence she was entitled to retrenchment compensation under Chap. V-A of the Industrial Disputes Act, 1947. She further claimed that it was a benefit computable under S. 33C(2) of the Industrial Disputes Act, and, therefore, respondent 1 should compute the benefit and award it to her. This application was met by the petitioner by filing two written statements. In the first written statement, the principal contention was that the respondent Court, that is, the labour court at Nagpur, had no jurisdiction to entertain the application because the claim for retrenchment compensation was not a benefit capable of being computed in terms of money within the meaning of Sub-section (2) of S. 33C. By the additional written

statement, the petitioner contended that the claim was time-barred, in any case, liable to be dismissed on the ground of undue delay.

4. It is agreed that the claim is not one falling under S. 25F of the Industrial Disputes Act, 1947, but is a claim under S. 25FFF of that Act. It is purely a claim for compensation for the closure of the undertaking and is computable in accordance with the provisions of S. 25F as if the workman had been retrenched, subject, however, to the provisions of Sub-section (2) of S. 25FFF.

5. By an order dated 7 October, 1961, respondent 1 repelled the contention that the labour court had no jurisdiction to entertain the claim on the ground that it did not relate to a non-monetary benefit. By a subsequent order dated 31 October, 1961, the Court held that the provisions of the Limitation Act did not apply and, if they did, the article which would apply would be Art. 120 of the Sch. I of the Limitation Act, in which case the claim would not be time-barred. The compensation was, however, not computed because that involved the recording of evidence. The labour court, therefore, postponed the case for the recording of evidence. The petitioner thereupon came before this Court praying for a writ of certiorari to quash the orders passed by respondent 1 on 7 and 31 October, 1961, and for a writ of prohibition requiring respondent 1 not to proceed with or pass any order upon the application made by respondent 2. An interim stay of proceeding was granted and the case is now pending before the labour court, subject to the order that may be passed in the petition.

6. By this petition, two points have been raised. The first point is that the labour court was not entitled to entertain an application for the computation of a non-monetary benefit under S. 33C(2) of the Industrial Disputes Act 1947. The second point is of limitation.

7. As regards the first point, the case is now concluded by a number of decisions : see *Shree Amarsinhji Mills Ltd. Vs. Nagrahna (M.N.) and Others*, . In this case, it has been held by our High Court that the words "any benefit which is capable of being computed in terms of money" occurring in S. 33C(2) of the Industrial Disputes Act, 1947, would include a claim for monetary benefit also. That was a case for a claim for a lay-off compensation under Chap. V-A of the Act and was payable under the provisions of S. 25C. That section is found in the new chapter added to the Industrial Disputes Act, 1947, as Chap. V-A dealing with lay-off and retrenchment. Section 25C deals with the right of workman to lay-off compensation. Section 25F deals with the right of workman to compensation before being retrenched and S. 25FFF deals with right of workmen to compensation when an undertaking is closed down. The principle behind the award of compensation in all these three sections is similar. Therefore, though the compensation payable under S. 25FFF is a monetary benefit, it is capable of being computed under S. 33C(2) of the Act by the labour court. There is a recent decision of the Supreme Court in *Punjab National Bank Limited Vs. K. L. Kharbanda*, . It has been held in that case that the word "benefit" used in Sub-section (2) of S. 33C is not confined merely to a non-monetary benefit which

could be converted in terms of money but is concerned with all benefits, whether monetary or non-monetary, to which a workman may be entitled. The subsection comes into play when the benefits have to be computed and calculated and there is a dispute as to the calculation or computation. A similar view had been taken by this Bench in a case recently decided, *Savatram Ramprasad Mills Co. Ltd. Vs. Baliram Ukandaji and Others*, . In view of the fact that the matter is now concluded, the learned counsel for the petitioner did not address us on the point.

8. It was the second point with regard to limitation which was canvassed before us at great length. It is an admitted fact that no period of limitation is prescribed for an application to be made before the labour court under S. 33C(2) of Industrial Disputes Act, 1947. It was, therefore, contended for respondent 2 that since the legislature in its wisdom has not thought it necessary to prescribe a period of limitation for such an application to be made by a workman, it must be held that there has been a deliberate omission to prescribe limitation and, therefore, it is open to a workman to go before the labour court with his application at any time suitable to him. The question of delay or staleness of a claim does not arise. Being pressed with the logical result of this contention, the learned counsel for respondent 2 admitted that a claim made after 10 years, or even 20 years, or 50 years will have to be entertained and determined under S. 33C(2) of the Act.

9. The contention of the petitioner is that it would be illogical not to apply limitation in some form of claims in industrial disputes. All statutes of limitation are based essentially on more or less equitable considerations and claims are held barred either because long dormant claims have more of cruelty than justice in them, or because a defendant might have lost the evidence to disprove a stale claim or because the persons with good causes of actions should pursue them with reasonable diligence [see Halsbury's Laws of England, Vol. 24, p. 181, 3rd Edn.]. It is contended for the petitioner that if these considerations have any relevance to claims between individuals, they have greater relevance in the case of industrial disputes because these disputes arise between two arms of the same industry, namely, labour and capital. If there is a perpetual conflict between labour and capital, the industry will not survive and both arms of the industry will be destroyed. As a general rule, it is argued limitation does not apply to industrial adjudication but the principles underlying it have got to be applied, because not to do so would be disastrous to the industry as a whole. There are ups and downs in an industry, however honestly it may be run, due to numerous causes over which the industrialists may not have control; for example, the consumer market, trade competition and even political and economic uncertainty. If hundreds and thousands of workman were to prefer stale claims in a lean year of the industry, not only would the industry go under but even the workers will be thrown out of employment. It is, therefore, contended that although statutory limitation may not apply, such claims must be conditioned by considerations which recognize the basic concept underlying the

statutes of limitation, in which case, delay or laches would be a good ground for throwing out the claims. Fortunately for him, the learned counsel for the petitioner argues, there is sufficient indication in S. 33C of the Act itself to found an argument that the claim in this case is barred by limitation or, in any case, ought to be discountenanced on the ground of unreasonable delay. But at all events, the counsel for the petitioner submits that the contention made on behalf of respondent 2 in so wide terms should not be countenanced in the interest of the industry.

10. It is contended for the petitioner that it is implicit in Ss. 33C(1) and 33C(2) that the claim to be made either before the appropriate Government or the labour court must not be otherwise barred by limitation if the same were made in civil Court or in any other tribunal constituted for that purpose.

11. Section 33C(1) is as follows :

"Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chap. V-A, the workman may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue."

12. Sub-section (2) of that section runs as follows :

"Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the amount at which such benefit should be computed may, subject to any rules that may be made under this Act, be determined by such labour court as may be specified in this behalf by the appropriate Government, and the amount so determined may be recovered as provided for in Sub-section (1)."

13. Special attention is called to the expression "money is due" and to the expression, "entitled to receive" in the sub-sections quoted above. It is also pointed out that the remedies, given in both these sub-sections are additional remedies, because Sub-section (1) specifically says that the remedy provided therein is without prejudice to any other mode of recovery and the remedy under Sub-section (2) is an expeditious remedy which is an additional remedy in some cases which may also fall under the payment of Wages Act or the Minimum Wages Act. It is further contended that if no special tribunal is specified for the purpose envisaged in Sub-section (2) to enforce, for example, the statutory right to recover compensation under Chap. V-A, the workman would be entitled to go to a civil Court and recover the dues. In short, the argument is that Sub-secs. (1) and (2) of S. 33C are additional remedies and, therefore, if a normal remedy is barred by the statute of limitation, the additional remedy under these two sub-sections must be also barred by imitation in view of the words used, namely, "money is due" and "entitled to receive."

14. In this connexion, reference is made to the decision of the Privy Council in *Abdullah Ashgar Ali v. Ganesh Das*, AIR (20) 1933 PC 63 . In that case, the expression "money due" as found in S. 186 of the Companies Act, 1913, was being construed. It was held that these words in S. 186 must be confined to money due and recoverable in a suit by the company and they do not include any moneys which at the date of the application under S. 186 could not have been so recovered. In that case, the liquidators of the company are wanting to recover from the executor of the contributory certain items of money. Section 186 provided that the Court, namely the Company Court, may at any time after making a winding-up order, make an order on any contributory for the time being settled on the list of contributories to pay in the manner directed by the order any money due from him. The question arose as to the meaning of the words "money due." Their lordships of the Privy Council considered this question in the context that a regular suit could always be filed and this remedy was an additional remedy. They pointed out that S. 186 created a special procedure for obtaining payment of money and was not a section which purported to create a foundation upon which to base a claim for the payment. Moreover, the power of the Company Court to order payment was discretionary. It could refuse to act under the section leaving the liquidator to sue in the name of the company in a regular Court. Having regard to these considerations, the Privy Council held that "money due" in S. 186 would mean money due and recoverable is an action was instituted in a regular civil Court. The learned counsel for the petitioner relies on this decision for his contention that the expression "money is due" and "entitled to receive" occurring in Sub-secs. (1) and (2) of S. 33C are synonymous and in the context they must be interpreted as money due and recoverable.

15. Developing this part of the argument, it is submitted that compensation sought to be recovered under S. 25FFF is wages falling within the definition of the word "wages" given in S. 2(vi)(d) of the Payment of Wages Act, 1936. Wages according to the definition means :

". . . all remuneration . . . expressed in terms of money or capable of being so expressed which would . . . be payable to a person employed in respect of his employment . . . and includes . . .

(d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made; "

16. Being wages, they are recoverable under S. 15 of the Payment of Wages Act by an application to the Payment of Wages Authority. Section 15 of the Act provides that such an application shall be presented within six months from the date on which the payment of wages was due to be made. It is further provided that any such application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period. Section 22 of the Payment of Wages

Act bars any suit for the recovery of wage if the claim could have been recovered by an application under S. 15 of the Payment of Wages Act. Having regard, therefore, to this provision of the Payment of Wages Act, it is contended, an application for a claim for compensation under S. 25FFF of the Industrial Disputes Act, 1947, could have been preferred before the Payment of Wages Authority within the period of limitation already referred to and, therefore, if such a claim is irrecoverable, because it is not preferred within the period of limitation prescribed, it should be equally barred when the claim is before the labour Court under S. 33C(2) of the Industrial Disputes Act. It was conceded that the ambit of Sub-section (2) is very wide and the claims for wages which may not be competent under the Payment of Wages Act are covered by Sub-section (2). But, as already suggested, when a statutory liability is created under Chap. V-A of the Industrial Disputes Act to pay compensation to a workman, in certain cases, that statutory liability could not be without a remedy, and if the claim is not recoverable before the Payment of Wages Authority or any other special tribunal created for the purpose by any other Act, it would be certainly recoverable in a civil Court, in which case, some article of the Limitation Act would apply. Considered as wages, Art. 7 or Art. 102 may come into play or in an extreme case even Art. 120 of the Limitation Act. The point, however, is whether a claim of the sort preferred by respondent 2 is recoverable through some authority created by the statute or, in any case, through a Court. And, since all these authorities, tribunals and Court are bound by some period of limitation, that period of limitation must be imported when recovery is sought to be made through the labour court.

17. Undoubtedly, the argument is attractive. The question is whether the expressions "money is due" in Sub-section (1) and "entitled to receive" in Sub-section (2) bear the meaning that not only money or benefit is owing but also that it is recoverable at law. As pointed out by our High Court in *Indian Co-operative Navigation and Trading Company v. Padamsey* (1933) 36 Bom. L.R. 32; AIR 1934 Bom. 97 "money due" in its primary sense merely denotes an existing debt whether or not the right recover the same is barred under the Limitation Act. But that expression is certainly capable of also meaning recoverable at law if the context so requires. Referring to the Privy Council case of *Hansraj Gupta*, the learned Chief Justice pointed out that in the context of S. 186 of the Companies Act "money due" clearly meant due and recoverable at law. Therefore, merely because the expression "money is due" has been used in Sub-section (1) of S. 33C and the expression "entitled to receive" in Sub-section (2) it will not bear anything but the primary meaning, namely, that money or benefit is owing as existing debt; if the context requires that it also means recoverable at law, then certainly that interpretation is open. But it is contended that the context does not require this sense to be attributed to these expressions.

18. Sub-section (1) deals primarily with the right of a workman to recover any money due to him by an application to the appropriate Government. The ambit of this sub-section has been considered in a number of cases and it has been

held that the sub-section gives a right to a workman to approach the appropriate Government when the amount due is quantified and determined by the authority concerned, and such quantified amount has remained unpaid. In this context, reference is invited to a decision of the Madras High Court in *South Arcot Electricity Distribution Co. Ltd. Vs. Elumalai and Others*, . It is pointed out in that case that S. 33C(1) does not grant power to the appropriate Government to make any enquiry about the legal liability of the employer to pay compensation under any of the provisions of Chap. VA of the Industrial Disputes Act, 1947. Before Sub-section (1) can take effect, the money must be due, that is to say, it must have become payable. The sub-section, therefore, relates to a stage in the proceedings where the amount due to the employee or a workman has been quantified and determined. Whereas Sub-section (2) of S. 33C provides for the determination of the amount, Sub-section (1) provides for the mere calculation of the unpaid amount. In fact, the line of division between Sub-secs. (1) and (2) was analogous to that between execution proceedings and trial proceedings. This result is clearly supported by the Supreme Court decision in *Kasturi and Sons (Private) Ltd. Vs. N. Salivateeswaran and Another*, and *Punjab National Bank Limited Vs. K. L. Kharbanda*, . In the former case, dealing incidentally with S. 33C of the Industrial Dispute Act, their lordships observe (p. 531) :

" . . . Under S. 33C, Sub-section (2), where any workman is entitled to receive from his employer any benefit which is capable of being computed in terms of money, the amount at which such benefit may be computed may, subject to any rules made under this Act, be determined by such labour court as may be specified in this behalf by the appropriate Government, and the amount so determined should be recovered as provided of in Sub-section (1). Then follows Sub-section (3) which provides for an enquiry by the labour court into the question of computing the money value of the benefit in question. The labour court is empowered under this sub-section to appoint a commissioner who shall, after taking such evidence as may be necessary, submit a report to the labour court, and the labour court shall determine the amount after considering the report of the commissioner and other circumstances of the case. These provisions indicate that, where an employee makes a claim for some money by virtue of the benefit to which he is entitled, an enquiry into the claim is contemplated by the labour court, and it is only after a labour court has decided the matter that the decision becomes enforceable under S. 33C(1) by a summary procedure."

19. In the second case it was observed that S. 33C is a provision in the nature of execution and where the amount to be recovered is worked out (for example in an award) or where it may be worked out without any dispute, S. 33C(1) will apply. But where the amount due to a workman is not stated in the award itself and there is a dispute as to its calculation, Sub-section (2) will apply and the workman would be entitled to apply thereunder to have the amount computed provided he is entitled to a benefit, whether monetary or non-monetary. Similarly, in *Bengal Nagpur Cotton Mills Ltd. Vs. State of Madhya Pradesh* and

Others, it is decided that S. 33C(1) deals with the recovery of an amount which has already been ascertained and not with the ascertainment of any amount payable to the employee. It is thus clear that the context, in which the phrase "money is due" has been used in Sub-section (1) of S. 33C does not require any adjudication of a liability but a mere arithmetical calculation whether certain amount determined as due has remained unpaid. The expression "without prejudice to any other mode of recovery, also emphasizes the same thing. Sub-section (1) is concerned with the mode of recovery and not an adjudication of the claim. If there is any other body which has the power to recover the amount which has been already adjudged due, it was open to a workman to go to that body for the recovery of that amount. "Money is due," therefore, in the context of S. 33C(1), does not mean "money is due and recoverable at law," in the sense, that the liability is still to be ascertained.

20. The expression "entitled to receive" has not been shown to mean anywhere in the decided case as "recoverable at law." It means no more than what it primarily connotes, an existing debt or liability. Recoverability implies some authority or agency. "To receive" by itself, does not imply any such authority or agency. It merely shows that a debt or liability is outstanding. Therefore, it is not possible to agree with the contention of the learned counsel for the petitioner that these expressions used in Sub-secs. (1) and (2) mean that they are recoverable at law.

21. Moreover, there is a fundamental difficulty in importing the principle of the Privy Council case, *Hansraj v. Dehra Dun M.E.T. Company*, because in that case there was a civil Court which could have given the same relief to the liquidators as they wanted from the Company Court. Whether statutory liabilities created for the first time by Chap. V-A of the Industrial Disputes Act, 1947, were recoverable by a suit in a civil Court is a point on which no opinion need be expressed. Chapter V-A was inserted in the Act by S. 3 of the Industrial Disputes (Amendment) Act, 1953, which came into force on 24 October, 1953. Provision was made in S. 25I of the same chapter for the recovery of moneys due from employers under that chapter and was almost similar to Sub-section (2) of S. 33C. For adjudication of a liability under that chapter in separate provision had been made and it is suggested for the petitioner that this adjudication could be made by a civil Court, though he was not able to show us any decided cases on the point.

22. Section 33C was inserted for the first time by the amending Act of 1956 which also created labour courts under S. 7. It is not disputed that statutory liabilities created under Chap. V-A were not liabilities known to common law and it was a moot question whether these rights could be enforced in a civil Court in the absence of a properly constituted tribunal. Reference was made to S. 9 of the CPC and it was pointed out that if no special forum was created for the purpose of enforcing the rights they could be enforced in a civil Court because S. 9 provided that the Courts shall have jurisdiction to try all suits of a civil nature

excepting suits of which cognizance is either expressly or impliedly barred. Whatever may have been the position between 1953 and 1956, regarding the proper forum in which such rights could be enforced, it seems that there is no manner of doubt, at least after the amendment of 1956, that the only forum is the labour court which came into existence under the same amending Act, namely, the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956. By this Act, the original S. 7 was substituted by a new one and for the first time the labour courts, apart from industrial tribunals, came into existence. These labour courts were constituted to adjudicate on industrial disputes relating to any matters prescribed in the Sch. II and for performing such other functions as may be assigned to them under the Act. One of such functions was the function referred to in S. 33C(2). It is, therefore, evident that with the constitution of labour courts to deal with the determination of benefits receivable by a workman, inter alia, under Chap. V-A of the Industrial Disputes Act, 1947, the jurisdiction of a civil Court, if any, was clearly barred by implication. Therefore, it is no longer open to contend after the amendment of 1956 that the compensation payable under Chap. V-A of the Industrial Disputes Act was recoverable through a civil Court as an alternative forum. The only forum was the labour court which the appropriate Government had constituted under S. 7 of the Act. In *Hansraj Gupta* case, as we have already seen, the alternative forum, namely, the civil Court, had still the jurisdiction to determine the claim of the liquidators against the contributories, and it was in that context that it was held that the remedy given by S. 186 was alternative remedy and that the section did not create a foundation upon which to base a claim for payment. In the present case, the liability is created by Chap. V-A of the Industrial Disputes Act and a forum is created by S. 7 of the same Act to give relief and, therefore, it is not open to contend that relief could be alternatively got from any civil Court. The context, therefore, in which the expression "entitled to receive" any benefit is used in Sub-section (2) of S. 33C does not justify the extended connotation of recoverability at law in a civil Court. For the reasons discussed above, we are of the view that S. 33C has not the effect of importing a provision with regard to limitation found in an analogous statute.

23. The question is whether it is possible to accede to the contention that no limitation whatever is provided in the case of claims arising out of industrial disputes, regardless of the fact that the claims have become stale, the parties have changed their position and there has been an unreasonable delay in preferring the claims. It appears that having regard to the peculiar nature of industrial disputes and the conflicts that arise between labour and capital, it is now well-established that although the laws of limitation do not apply to industrial adjudications, over-stale claims should not be encouraged or allowed. In *Inder Singh & Sons, Ltd. v. Their workmen* 1961 II L.L.J. 89 the Supreme Court has pointed out [p. 92] :

". . . It is true that laws of limitation which might bar any civil Court from giving remedy in respect of lawful rights are not and should not be applied by the

industrial tribunals. On the other hand it is a well-accepted principle of industrial adjudication that over-stale claims should not generally be encouraged or allowed, unless there is a satisfactory explanation for the delay. Apart from the obvious risk to industrial peace from the entertainment of claims after a long lapse of time, it is necessary also to take into account unsettling effect this is likely to have on the employer's financial arrangements. Whether a claim has become too stale or not will depend on the circumstances of each case. In *Jhagrakhand Collieries (Private), Ltd. v. Central Government Industrial Tribunal* 1960 II L.L.J. 71 where a claim for extra wages under Clause (2) of this very award came up for consideration, this Court held that it would not be fair or just to allow the workmen the benefit of an increase directed by the award even prior to the date of the demand. A similar view was taken in this Court's judgment in *United Collieries, Ltd. v. Its workmen* 1961 II L.L.J. 75. While these cases do not lay down an absolute proposition as suggested on behalf of the respondent, that relief can in no case be granted for a period prior to the demand, they do strongly support the proposition that in deciding on the date from which the relief should be given the industrial tribunal ought to pay particular attention to the date when the demand was first made."

24. It is clear from the above that laws of limitation as such are not applicable to industrial adjudication, but, at the same time, over-stale claims are not to be encouraged.

25. The question now is whether this principle applied to the labour courts constituted under S. 7 of the Industrial Disputes Act, 1947. On this point the respondent-worker contends that all that the labour court is required to do under S. 33C(2) is to determine by computation in terms of money any benefit that the worker was entitled to receive under a settlement or an award or under the provisions of Chap. V-A of the Industrial Disputes Act, 1947, and such computation did not really involve any industrial adjudication and, therefore, all claims, including delayed claims, must be determined by the labour court. In order to see the correctness of this argument we will have to see the character of the labour courts, their constitution and functions. Merely because in a given case it will be very easy to compute any particular benefit in terms of money it will not mean that the Court is not one governed by principles of industrial adjudication. The question has to be determined with reference to its constitution and functions, and if the constitution and functions involve principally industrial adjudication in its broadest sense, the labour court would be entitled to consider whether any claim preferred before it is stale or barred by unreasonable delay. As we pointed out above, the labour courts came into existence for the first time under the Industrial Disputes Act, 1947, as a result of the amendment made thereto by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956. Section 7(1) of the amended Act provides that the appropriate Government may, by notification in the official Gazette, constitute one or more labour courts for the adjudication of industrial disputes relating to any matter specified in the Sch. II and for performing such other functions as may be

assigned to them under this respect, they are comparable to the industrial tribunals which are constituted under S. 7A(1). That section provides that the appropriate Government may, by notification in the official Gazette, constitute one or more industrial tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Sch. II or the Sch. III. Before the amending Act of 1956, there were only industrial tribunals and they performed all the functions under the Industrial Disputes Act, 1947. After 1956, in addition to the industrial tribunals, powers were given to the appropriate Government to constitute labour courts under S. 7 and national tribunals under S. 7B. But all these Courts and tribunals, it should be noted, have been created for the avowed purpose of adjudication of industrial disputes. Therefore, the labour court is essentially an authority for the adjudication of industrial disputes, and would be governed by all the principles of industrial adjudication. It is true that in addition to the adjudication of industrial disputes the labour court has been also asked to perform other functions assigned to it under the Act; for example, the function under S. 33C(2); but that does not mean that while doing these functions, the labour court will ignore the principles of industrial adjudication. It is a forum specially created under the Industrial Disputes Act for determining a number of matters not only relating to award and settlements under that Act but also matters which are ancillary to such awards and settlements and also for determining all questions under Chap. V-A of the Industrial Disputes Act. Essentially, therefore, the labour court is a tribunal for industrial adjudication and, therefore, the principles which govern industrial adjudication before an industrial tribunal must also apply to the cases before a labour court.

26. Even the history with regard to the constitution of these Courts will show the purpose for which they have been created. The Industrial Disputes Act, 1947, when it came into force in April 1947, did not provide for a suitable agency for the enforcement of the awards and settlements. That was first done by the Industrial Disputes (Appellate Tribunal) Act, 1950. of that Act is very much similar to S. 33C of the Industrial Disputes Act, 1947, which was inserted in 1956. Sub-section (1) of S. 20 of the Act of 1950 provided that any money due from an employer under any award or decision of an industrial tribunal may be recovered as arrears of land revenue or as a public demand by the appropriate Government on an application made to it by the person entitled to the money under that award or decision. Sub-section (2), which is important, was analogous to Sub-section (2) of S. 33C. It provided that where any workman is entitled to receive from the employer any benefit under an award or decision of an industrial tribunal which is capable of being computed in terms of money, the amount at which such benefit should be computed may, subject to the rules made under this Act, be determined by that industrial tribunal, and the amount so determined may be recovered as provided for in Sub-section (1). It will be seen from Sub-section (2) of S. 20 of the Act of 1950, that what is now necessary to be done by the labour courts under S. 33C(2) had to be done by the industrial tribunals themselves. This Act of 1950 was repealed by the

Industrial Disputes Amendment and Miscellaneous Provisions) Act, 1956, by which, as referred to above, the labour court was, for the first time, constituted, and S. 33C also was inserted. In fact, S. 33C is in a large measure a re-enactment of S. 20 of the Industrial Disputes (Appellate Tribunal) Act, 1950, with only this variation in it, namely, that the computation of any benefit in terms of money was now left to the labour court instead of to the industrial tribunal, which, among the tribunals constituted after 1956, was the lowest. It cannot be doubted that when an industrial tribunal deals with a matter which fell under S. 20(2), Industrial Disputes (Appellate Tribunal) Act, 1950, it was principally guided by the principles of industrial adjudication. Now that the jurisdiction is given to the labour courts, we do not see any reason why the same principles regarding industrial adjudication should not govern when similar functions which were formerly carried out by the industrial tribunals have now to be carried out by the labour courts.

27. In this context, even the wording of S. 33C(2) may be noted, any benefit may be determined by the labour courts and the amount so determined may be recovered as provided for in Sub-section (1). It is contended that the word "may" in this context meant "shall". It is also well-established that in the statutes which authorize persons to do acts for the benefit of others, or, as it is sometimes said, for the public good or the advancement of justice, the word "may" means "shall". But it is worthy of note that whereas, in Sub-section (1), the word "shall" has been used, requiring the appropriate Government to issue a certificate for the unpaid amount, in Sub-section (2) that word is not used. This, it is contended for the petitioner, must have been deliberately done with a view to invest the labour court in the discharge of its various functions which were formerly discharged by the industrial tribunals with certain amount of discretion in computing and awarding claims. However that might be, there can be hardly any doubt that the labour court while doing functions under S. 33C(2) is as much governed by the general principles of industrial adjudication as an industrial tribunal and since these principles discourage over-stale and delayed claims being entertained, the labour court functioning under Sub-section (2) will have the power not to entertain such claims, although no law of limitation applied to it.

28. Reference may be made in this connexion to S. 15 of the Payment of Wages Act already referred to. No doubt, that section says that the claim has to be preferred within six months, but there is a further proviso which says that if there is delay, the authority will decide whether it is an unreasonable delay. Industrial disputes are required to be settled as early as possible. Therefore, undue delay or laches would not be countenanced by the labour court. Whether there has been an unreasonable delay is a question to be decided by the labour court in its discretion. All that we need say now is that the labour court functioning under S. 33C(2), though not governed by the laws of limitation which might bar a civil Court from giving relief in respect of a lawful right, will be entitled not to encourage or allow over-stale claims unless there is a satisfactory explanation for the delay.

29. In this case, respondent 1 has proceeded on the footing that the law of limitation does not apply and, therefore, it is not prevented from entertaining the claim. In view of the opinion expressed above, respondent 1 will have to consider whether there has been an unreasonable delay in making the claim and if so, a reasonable explanation has been offered and then proceed to determine the matter on merits.

30. Respondent 1 is, therefore, directed to reconsider the question of limitation raised in the light of the above remarks and decide the same. Parties to bear their own costs.