
(2009) 01 AHC CK 0028
In the Allahabad High Court

S.B.E.C. Sugar Limited

APPELLANT

Vs

Labour Court and Others

RESPONDENT

Date of Decision : 29-01-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C

Citation : (2009) 85 AWC 1851 : (2009) 2 AWC 1851 : (2009) 3 LLJ 389

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Tarun Agarwala, J.—Heard the learned Counsel for the petitioner.

2. The workman filed an application u/s 33C(2) of the Industrial Disputes Act for payment of wages for the period 11.9.2005 to 5.1.2006 and also claimed a sum of Rs. 10,000 which he had deposited as security at the time of his engagement as a weighment clerk. The labour court in its order has awarded a sum of Rs. 10,361 towards arrears of wages alongwith interest @ 6% per annum. The petitioner, being aggrieved, has filed the present writ petition.

3. The learned Counsel for the petitioner submitted that the application u/s 33C(2) of the Act was not maintainable since there was no previous adjudication of the benefit which the workman had claimed. In support of his submission, the learned Counsel for the petitioner has placed reliance upon a decision of the Supreme Court in D. Krishnan and Another Vs. Special Officer, Vellore Co-operative Sugar Mill and Another,

4. In my opinion, the submission of the learned Counsel for the petitioner is patently misconceived and bereft of merit. In Chief Mining Engineer East India Coal Co. Ltd. Vs. Rameswar and Others, the Supreme Court held that the right to the benefit u/s 33C(2), which is sought to be computed, must be an existing one which has also been adjudicated upon or provided for and that such claim must be in respect of an existing right arising from the relationship between an

industrial workman and his employer.

5. In *Municipal Corporation of Delhi Vs. Ganesh Razak and Another*, the Supreme Court after reviewing its earlier decisions held that where the very basis of the claim or the entitlement of the workman to a certain benefit was disputed, and if there was no earlier adjudication of the dispute, in that event, the claim of the workman u/s 33C(2) would be without jurisdiction. The Supreme Court held that the labour court would have no jurisdiction to decide the entitlement of the workman and then to proceed to compute the benefit u/s 33C(2).

6. In the present case, the petitioner is claiming the wages for the period he had worked. The fact that the petitioner had worked for the said period has not been denied by the employer. The fact that the workman was not paid the wages or the stipend as contended by the employers is also not disputed. The rate of wages or the scale of stipend is also not disputed. Consequently, the wages which is due and payable to the workman is the benefit which is available to the workman and is an existing right granted to him under the Industrial Laws and is not required to be adjudicated as alleged or contended by the employer.

7. Consequently, the Court is of the opinion that the entitlement of the arrears of wages to the workman was an existing benefit which was only required to be computed and the application was rightly filed u/s 33C(2) of the Act.

8. In view of the aforesaid, the impugned order passed by the labour court does not suffer from any error of law.

The writ petition is dismissed summarily.