

**CWP-9648-2000****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(215)****CWP-9648-2000****Date of Decision : April 28, 2025****Balbir Singh****.. Petitioner****Versus****Labour Court, Gurdaspur through its Presiding Officer and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: None for the petitioner.

Mr. T.P.S. Chawla, Sr. Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. Present writ petition has been filed against the Award dated 08.02.2000 (Annexure P-8) by which, the claim of the petitioner for the release of his salary filed under Section 33-C (2) of the Industrial Disputes Act, 1947 (hereinafter referred as '1947 Act') has been dismissed on the ground that the said remedy cannot be availed in the facts and circumstances of the present case as there is no Award or settlement between the parties to claim the benefit as being claimed in the present petition.

2. As per the settled principle of law, in case, the claim of any workman is to be adjudicated qua the entitlement, the same can only be done by way of reference and cannot be claimed under Section 33-C (2) of the 1947 Act.



3. The Hon'ble Supreme Court of India in ***Civil Appeal No.813 of 2022 titled as M/s Bombay Chemical Industries vs. Deputy Labour Commissioner and another, decided on 04.02.2022***, has held that Labour Court has no jurisdiction and cannot adjudicate the dispute of entitlement. Relevant paragraphs 6 and 7 of the said judgment are as under:-

“6. At the outset it is required to be noted that respondent No.2 herein filed an application before the Labour Court under [Section 33\(C\)\(2\)](#) of the Industrial Disputes Act, demanding difference of wages from 01.04.2006 to 31.03.2012. It was thus the case on behalf of respondent No.2 that he was working with the appellant as a salesman. However, the appellant had taken a categorical stand that respondent No.2 was never engaged by the appellant. It was specifically the case on behalf of the appellant that respondent No.2 had never worked in the establishment in the post of salesman. Therefore, once there was a serious dispute that respondent No.2 had worked as an employee of the appellant and there was a very serious dispute raised by the appellant that respondent No.2 was not in employment as a salesman as claimed by respondent No.2, thereafter, it was not open for the Labour Court to entertain disputed questions and adjudicate upon the employer-employee relationship between the appellant and respondent No.2. As per the settled proposition of law, in an application under [Section 33\(C\)\(2\)](#) of the Industrial Disputes Act, the Labour Court has no jurisdiction and cannot adjudicate dispute of entitlement or the basis of the claim of workmen. It can only interpret the award or settlement on which the claim is based. As held by this Court in the case of [Ganesh Razak and Anr. \(supra\)](#), the labour court's jurisdiction under [Section 33\(C\)\(2\)](#) of the Industrial Disputes Act is like that of an executing court. As per the settled preposition of law without prior adjudication or recognition of the disputed claim of the



workmen, proceedings for computation of the arrears of wages and/or difference of wages claimed by the workmen shall not be maintainable under Section 33(C)(2) of the Industrial Disputes Act. (See [Municipal Corporation of Delhi Vs. Ganesh Razak and Anr.](#) (1995) 1 SCC 235).

In the case of [Kankuben](#) (supra), it is observed and held that whenever a workman is entitled to receive from his employer any money or any benefit which is capable of being computed in terms of money and which he is entitled to receive from his employer and is denied of such benefit can approach Labour Court under Section 33C (2) of the ID Act. It is further observed that the benefit sought to be enforced under Section 33C (2) of the ID Act is necessarily a preexisting benefit or one flowing from a preexisting right. The difference between a preexisting right or benefit on one hand and the right or benefit, which is considered just and fair on the other hand is vital. The former falls within jurisdiction of Labour Court exercising powers under Section 33C (2) of the ID Act while the latter does not.

7. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, when there was no prior adjudication on the issue whether respondent No.2 herein was in employment as a salesman as claimed by respondent No.2 herein and there was a serious dispute raised that respondent No.2 was never in employment as a salesman and the documents relied upon by respondent No.2 were seriously disputed by the appellant and it was the case on behalf of the appellant that those documents are forged and/or false, thereafter the Labour Court ought not to have proceeded further with the application under Section 33(C)(2) of the Industrial Disputes Act. The Labour Court ought to have relegated respondent No.2 to initiate appropriate proceedings by way of reference and get his right crystalized and/or adjudicate upon. Therefore, the order passed by the Labour

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Court was beyond the jurisdiction conferred under [Section 33\(C\)\(2\)](#) of the Industrial Disputes Act. The High Court has not appreciated the aforesaid facts and has confirmed the same without advertng to the scope and ambit of the jurisdiction of the Labour Court under [Section 33\(C\)\(2\)](#) of the Industrial Disputes Act.”

4. No one has appeared on behalf of the petitioner. Hence, it can be safely presumed that the petitioner is not interested in pursuing the present writ petition in view of the settled principle of law.

5. Dismissed for non-prosecution.

April 28, 2025*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No