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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision : 02.09.2025

1. LPA-1968-2025

Chander Parkash **...Appellant**

Vs.

State of Haryana and others **...Respondents**

2. LPA-1969-2025

Vijender Singh **...Appellant**

Vs.

State of Haryana and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Dilbagh Singh, Advocate
for the appellant(s).
Mr. Deepak Bhardwaj, Addl. A.G., Haryana.

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ANUPINDER SINGH GREWAL, J.(Oral)

By this common order the aforementioned two Letters Patent Appeals i.e. LPA-1968-2025 and LPA-1969-2025 are being decided. For the sake of convenience, the facts have been taken from LPA-1968-2025.

2. Appellant has challenged the judgment of the Single Bench whereby the writ petition preferred by the petitioner impugning the award of the Labour Court has been dismissed.

3. Learned counsel for the appellant submits that the appellant was entitled to regularization w.e.f. 01.02.1991 as Resolution No.7(5) had been passed by the Municipal Committee, Meham, in that regard, on 29.01.1991. He has also relied upon the judgments of the learned Single Bench of this Court in

RSA No.797-2009, titled as "***State of Haryana through Collector, Sirsa and others Vs. Suresh Kumar***, RSA No.3334-2006, titled as "***State of Haryana and others Vs. Daljeet Singh***" and RSA No.1532-2008, titled as "***State of Haryana and others Vs. Nand Lal***".

4. Heard.

5. The services of the appellant, who was working with respondent had been regularized w.e.f. 01.02.1996. The appellant is relying upon the Resolution passed by the Municipal Committee, whereby it was recommended that the appellant be regularized on the pay-scale of Rs. 750-940 w.e.f. 01.02.1991. However, a perusal of the Resolution No.7(5) indicates that the Resolution was to be sent to the Deputy Commissioner for his approval, meaning thereby that only after the approval is accorded by the Deputy Commissioner, it would be in force. There is nothing to indicate that the approval was accorded by the Deputy Commissioner. The appellant had preferred an application under Section 33 (C) (2) of the Industrial Disputes Act, 1947 seeking the regularization and pay scale w.e.f. 01.02.1991. The Labour Court declined the claim by noting that there is no order in favour of the petitioner, which warrants enforcement. The services of the appellant had been regularized w.e.f. 1996 and that he had been granted the pay-scale applicable to the regular employees with effect from that date. There is no order by the competent authority, which would entitle the appellant to the pay-scale or regularization w.e.f. 1991 as had been claimed by him before the Labour Court. Reference can be made to the judgment of the Supreme Court passed in Civil Appeal No.813 of 2022, titled as "***M/s Bombay Chemical Industries Vs. Deputy Labour Commissioner and another***", wherein it has

been held that when a claim is to be adjudicated, application under Section 33 (C) (2) of the 1947 Act would not be maintainable and the proper course for the workmen is to seek adjudication under Section 10 of the Industrial Disputes Act, 1947. The relevant extract of the judgment is reproduced 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 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 adverting to the scope and ambit of the jurisdiction of the Labour Court under Section 33(C)(2) of the Industrial Disputes Act."*

6. The judgments relied upon by the learned counsel for the appellant are distinguishable on facts and do not help the case of the appellant in any manner whatsoever. In those cases, it was held that if the workmen therein had completed 240 days of service, they would be entitled to regularization and they do not pertain adjudication under Section 33 (C) (2) of the Industrial Disputes Act, 1947.

7. Consequently, we are of the considered view that there is no illegality in the judgment of the Single Bench warranting interference in letters patent appeal.

8. Both the above-mentioned Letters Patent Appeals stand dismissed. All pending miscellaneous application(s) shall also stand disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

02.09.2025
vanita

Whether speaking/reasoned : Yes No
Whether Reportable : Yes No