

Order Below Preliminary Issues vide Exhibit 09

1. A preliminary objection raised by the Management/ opponent with regard to the maintainability of the application under Section 33-C(2) of the Industrial Disputes Act filed by a applicant has led to the filing of this application by the Management.
2. The applicant filed the present application for recovery of amount of money due granted in an award.
3. Counsel for the management has argued that the present application is not maintainable under section 33 C(2) of the Industrial Disputes Act. Further the application is time barred.
4. The learned Counsel for the applicant has countered the argument by his reply vide Exhibit 10.
5. To resolve this controversy, it is necessary to make a brief reference to the relevant provision of the Subsection (2), which is part of Section 33C dealing with "the recovery of money due from an employer" reads as follows: "(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that any be made under this Act, be decided by such Labour Court as

may be specified in this behalf by the appropriate Government.''

6. Now looking the present application, the application is claiming the money due granted in an award passed by labour court. Thus the controversy regarding entitlement has already been adjudicated. In the case of **Municipal Corporation of Delhi Vs. Ganesh Razak and Anr., (1995) 1 SCC 235 and Union of India and another Vs. Kankuben (Dead) By Lrs. And Others, (2006) 9 SCC 292**, it is held that in a proceeding under Section 33(C) (2) of the Industrial Disputes Act, the Labour Court cannot adjudicate the dispute of entitlement or the basis of the claim and it can only interpret the award or settlement on which the claim is based.

7. Further with regard to objection over delay in filing the present application, In the case of **East India Coal Ltd. Vs. Rameshwar & Ors., AIR 1968 SC 218**, the Apex Court held that there is no limitation in filing the application under Section 33C (2) of the Act.

8. Thus, I find no substance in the contentions advanced by the learned Counsel for the management. Hence the present application is hereby rejected.

Date: 09/04/2024

Vadodara

Arun Soni

Judge, Labour Court