

LCA 1091/26

Madan Mohan Vs. MCD

04.07.2026

File taken up today on an application under order XII rule 6 read with Section 151 CPC filed on behalf of the workman.

Present: Sh. Abhishek R. Bhardwaj, Ld. AR for the applicant/workman.

Sh. Deepesh Verma, Ld. AR for the MCD/management through V.C.

Heard on the application. Record perused.

Application under order XII rule 6 read with Section 151 CPC filed by the workman stands allowed and is disposed of accordingly.

The present petition/application under Section 33 C(2) of ID Act, 1947 has been filed by applicant/workman **Madan Mohan S/o Sh. Mangal Ram** claiming that **he/she is/was** employee of the management and management has not cleared dues pertaining to following heads:

(a) MACP/ACP arrear

(b) Regularization arrear & non metric

The MCD/Management has filed service record and calculation chart admitting the workman to be its employee and also admitting the details of outstanding dues as under : **(a) Rs. 215999/- MACP/ACP arrear (b) 544897/- Regularization arrear & non metric and thus, total amount Rs. 760896/-.**

Statement of AR for the applicant admitting the correctness of the calculation chart with request to dispose off the case, on the basis of calculation given by the management, has already been recorded separately on **05.06.2026.**

Scope and ambit of Section 33-C(2) of I.D. Act has been discussed in para 13 of judgment titled ***“Jeet Lal Sharma Vs. Presiding Officer, Labour Court-IV & Anr.” 2000 IV AD (Del)*** wherein Hon’ble High Court of Delhi after referring to a series of judgments of Hon’ble Apex Court titled (i) ***“Punjab National Bank Vs. K. L. Kharbanda” reported in 1962 (1) LLJ 234;*** (ii) ***“Central Bank of India Vs. P.S. Rajagopalan” reported in 1963 (2) LLJ 89;*** (iii) ***“Bombay Gas Company Limited Vs. Gopal Bhiva” reported in 1963 (2) LLJ 608;*** (iv) ***“Chief Engineer Mining, East India Coal Company Limited Vs. Rameshwar” reported in 1968 (1) Lab I.C.6 SC and*** (v) ***“Municipal Corporation of Delhi Vs. Ganesh Razak” reported in 1995 (1) SCC 335*** has observed:

“13. When the claim is based on adjudication or settlement it poses no difficulty. However there may be cases where the workman would be held entitled to receive the money as pre-existing right on the basis of the agreement between the employer and employee or as per established service conditions which have culminated into right in favour of the workman.....

It was also held by Hon’ble Apex Court that application under section 33-C(2) would be maintainable and jurisdiction of Labour Court will not be barred merely because employer has denied the same in case the right to get a particular benefit is included in the service conditions. Para 15 and 16 of judgment of Hon’ble High Court in Jeet Lal Sharma’s case (supra) w.r.t jurisdiction of Labour Court are reproduced below for reference:

“15. The point which is emphasized is that entitlement to receive money i.e. pre-existing right can be based on (1) adjudication (2) settlement (3) service conditions. If the right to get a particular benefit is there, the application u/s. 33-C(2) would be maintainable and jurisdiction of Labour Court will not be barred merely because employer has denied the same.”

“16. What is the meaning of the expression “entitlement to receive”. No doubt it is referable to pre-existing right. However where the workman claims a benefit flowing from a pre-existing and approaches the Labour Court u/s. 33-C(2) for computation of the right in term of money and the employer disputes the existence of the right, the Labour Court will have jurisdiction to determine the question whether the right exists and if the

existence of right is established than to proceed to compute the benefit flowing there from in terms of money or on its decisions recovery proceedings can start (New Taj Mahal Cafe Private Limited versus Labour Court reported in 1970 (2) LLN 51 and East India Coal Company Limited (supra). In deciding the maintainability of the application u/s. 33-C(2) what is to be looked at is the claim set up in the applications and not what the other side contends in its reply. The fact that the employer by his plea raises some dispute does not mean that jurisdiction of Labour Court to deal with the question is taken away.”

Accordingly, present petition/application under Section 33 C(2) of ID Act, 1947 is allowed and management is directed to pay **Rs. 760896/-** to the applicant/workman **Madan Mohan S/o Sh. Mangal Ram**. Needless to mention, if at any point of time, it is found that amount has already been paid or overpaid, the MCD would be at liberty to deduct said amount. Further, if at any point of time, it is found that due to some discrepancy, error due to incorrect fixation of pay or any emoluments, excess payment has been made, the applicant would be liable to refund the said amount to the MCD. The applicant would give an undertaking in this regard to the MCD. **Date already fixed i.e. 09.08.2026 stands cancelled.**

File be consigned to record room.

As prayed, copy of order be given dasti.

(Chetna Singh)
POLC-06: RADC/New Delhi
04.07.2026