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S.B. Civil Writ Petition No.17115/2010
S.B. Civil Writ Petition No.1239/2011
S.B. Civil Writ Petition No.10281/2011

Date of Order ::: 21.03.2012

Present
Hon'ble Mr. Justice Mohammad Rafiq, J.

Shri Virendra Singh Yadav,
Shri Om Prakash Sheoran and
Shri Vinayak Joshi, counsel for petitioners
Shri Dharmendra Jain,
Shri Kailash Choudhary and
Shri Suresh Kashyap, counsel for respondents-workmen
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Learned counsel appearing for the respondents-workmen have filed applications under Section 17-B of the Industrial Disputes Act (for short, the Act') and argued that a Division Bench of this Court in **Karan Singh Vs. Authorized Disciplinary Authority RSRTC and Another, D.B. Civil Special Appeal (Writ) No.706/2008**, reported in **2009 (2) WLC 209**, has held that provisions of Section 17-B of the Act would be applicable also to the proceedings under Article 226 of the Constitution of India arising out of proceedings under Section 33(2)(b) of the Act, wherein the management challenges the order passed by the Labour Court/Industrial Tribunal declining to approve the termination of the workmen. Learned counsel argued that the said order of the division bench was challenged before the Supreme Court by way of filing Special Leave to Appeal (Civil) No.15615/2009 and the Supreme Court, vide order dated 24.07.2009, while upholding the correctness of the aforesaid division bench judgment in Karan Singh's case, declined to interfere with the judgment of the division bench, although 50% of the amount was ordered to be paid to the respondent

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workman and remaining 50% was directed to be deposited with the Registrar of this court. Subsequent thereto, another division bench of this court in Hotel Mansingh Vs. Judge, Industrial Tribunal, Jaipur and Another – D.B. Civil Special Appeal (Writ) No.691/2000, by order dated 28.07.2009, referred the matter to the Larger Bench for deciding the issue involved.

Learned counsel has cited yet another order of the Division Bench dated 24.09.2009 in Shri **B.R. Jyani Vs. Shri Nathu Lal Sharma and Another – D.B. Special Appeal (Writ) No.800/2009**, whereby the division bench has granted benefit to the workman under Section 17-B of the Act in a case arising out of proceedings under Section 33 (2)(b) of the Act, supra.

Keeping in view the fact that the reference has been made by the Division Bench to the Larger Bench, I deem it appropriate to direct that these matters be listed on 28.03.2012 before the Division Bench for consideration of the application filed by the respondents-workmen under Section 17-B of the Act.

List on 28.03.2012 before the Division Bench hearing such matters.

(Mohammad Rafiq) J.

//Jaiman//

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Giriraj Prasad Jaiman
PS-cum-JW