

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 22972/2017
CNR: RJHC020802642017 | URN: CW / 39352U / 2017

1 M.n.i.t. Mess Employees Union Jaipur Through General
Secretary Ganga Ram, MNIT Campus, Jawahar Lal Nehru
Marg, Jaipur.

----Petitioner

Versus

1 The Director, M.N.I.T., J.L.N. Marg, Jaipur.
2 The Registrar, Malviya National Institute of Technology,
Jawahar Lal Nehru Marg, Jaipur.

----Respondent

For Petitioner(s)	:	Mr. Kunal Rawat with Ms. Dhriti Sharma
For Respondent(s)	:	Mr. Sarthak Rastogi with Mr. Tushar Kumar & Ms. Manasvi Tyagi

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

18/02/2026

1. Instant writ petition is filed by the petitioner with the
following prayer:-

It is therefore humbly prayed that:-
(i) The writ petition of the petitioner may kindly be
accepted;
(ii) By an appropriate order or direction the under
dated 12.10.2017 may kindly be modified to the
extent that the rejection of the claim of petitioner's
Union may kindly be granted.
(iii) By an appropriate Writ Order or direction, the
impugned order dated 12.10.2017 (Annex. - 12)
may kindly be modified and the discrimination
caused to the members of petitioner Union from Sr.
I to 23 and 41 in the list mentioned in para - 8
whose names are appeared at in the list A 49 to 71

and 91 (list - A discussed in the order dated 12.10.2017) be computed amount along with the arrear be granted.

(v) By an appropriate order or direction the respondents be directed to grant the benefits to all the members of Petitioner union as is envisaged under Section - 18 of the Industrial Disputes Act, 1947. As such the workmen from 24 to 40 in the list of para - 8 (Sr. No. 72 - 88 of list - A discussed in the order dated 12.10.2017)

(Vi) By an appropriate order or directions the respondents be directed to make the payment of due amount forthwith.

2. Heard learned counsel for the parties and perused the material placed on record.

3. We have disposed of S.B. Civil Writ Petition No. 8745/2018, M.N.I.T. and Anr. Vs. M.N.I.T. Mess Karamchari Sangh, on 13.02.2026, in following manner:-

14. Considering the scope of Section 33C(2) of ID Act and the award dated 04.04.1997, order of Labour Court up to the extent of directing the employer to pay minimum of pay scale applicable upon them as per award is upheld, but the direction to make payment of dearness allowance (DA) and CCA is set aside as same is not part of the award. Thus, the petition is disposed in following terms:

1. The petitioners shall pay minimum of regular pay scale revised from time to time on basis of implementation of pay commission to the members of respondent who were beneficiaries as per award dated 04.04.1997.

2. The respondent (workmen) are not entitled for any allowance but if any allowance is paid till date, then same shall not be recovered or adjusted against any payment of arrears.

3. The petitioners shall calculate and prepare due drawn statement with regard to payment and arrear, if any due, and same be paid to concerned workmen within a period of 90 days from date of receipt of copy of the order.

4. The petitioners shall supply the computation sheet and due-drawn statement of each and every workman to the respondent.

5. With aforesaid the order dated 12.10.2017 in LCC No.27/2016 passed by the Labour Court No.1, Jaipur is hereby modified.

4. The counsel for the petitioners has placed reliance upon the order dated 24.02.2009 in **Civil Writ Petition No. 6531/1994**, titled as **Municipal Corporation, Kota Vs. Hansraj and Anr.**, passed by a Co-ordinate Bench of this Court and we are reproducing the referred paragraphs during the arguments as under:-

4) Upon hearing learned counsel for the parties and perusing the impugned-order, I find that the controversy that is raised in the present matter is squarely covered by the judgment of Supreme Court in M/s.New India Motors (P) Ltd., New Delhi supra in paras 8 and 9 of which, the Supreme Court observed, as under:-

"8. Section 18 of the Act is also relevant for this purpose. It deals with persons on whom awards are binding. Section 18(3) provides, inter alia, that an award of a tribunal which has become enforceable shall be binding on (a)all parties to the industrial dispute, (b) all other parties summoned to appear in the proceedings as parties to the dispute unless the tribunal records the opinion that they were so summoned without proper cause, and (d)where a party referred to in cl. (a) or cl.(b) is composed of workmen all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute, and all persons who subsequently become employed in that establishment or part. It is thus clear that the award passed in an industrial dispute raised even by a minority union binds not only the parties to the dispute but all employees in the establishment or part of the establishment, as the case maybe, at the date of the dispute and even those who may join the establishment or part subsequently. Thus the circle of persons bound by the award is very much wider than the parties to the industrial dispute. This aspect of the matter is also relevant in construing the material words in S.33(1)(a).

9. In this connection the object of S.33 must also be borne in mind. It is plain that by enacting S.33 the Legislature wanted to ensure a fair and satisfactory enquiry of the industrial dispute undisturbed by any action on the part of the employer or the employee which would create fresh cause for disharmony between them. During the pendency of an industrial dispute status quo should be maintained and no further element of discord should be introduced. That being the object of S.33 the narrow construction of the material words used in S.33(1) (a) would tend to defeat the said object. If it is held that the workmen concerned in the dispute are only those who are directly or immediately concerned with the dispute it would leave liberty to the employer to alter the term and conditions of the remaining workmen and that would

inevitably introduce further complications which it is intended to avoid. Similarly, it would leave liberty to the other employees to raise disputes and that again is not desirable. That is why the main object underlying S.33 is inconsistent with the narrow construction sought to be placed by the applicant on the material words used in S.33(1)(a)."

5) Perusal of the aforesaid law enunciated by the Supreme Court, makes it clear that award of the Tribunal would be enforceable and binding on all the parties in the industrial dispute proceedings either in Section S.33(1)(a) and or Section S.33(1)(b), whether such persons were already employed or subsequent to the date of reference, employed in that establishment. Supreme Court in the above referred to case held that narrow construction of the material words used in S.33(1)(a) would tend to defeat object of the legislature, which is to ensure implementation thereof where the industrial dispute is pending and binding for all the workers either who are already employed or were subsequently engaged in an establishment.

6) In view of above, I do not find any merit in this writ petition. The view taken by the learned Industrial Tribunal cannot be faulted. Petitioner in any case would be entitled to benefits to the extent of 40% only for the period prior to passing of impugned award dated 23/2/1994 and not during the pendency of the writ petition.

5. The only contention of the counsel for the respondents is that S.B. Civil Writ Petition No. 4502/1997 was filed by Kailash Chandra Napit and others, and after considering the grounds, the writ petition claiming regular pay scale from the date of completion of two years was dismissed. We are reproducing the following paragraph from the order dated 15.02.2010:-

16) Coming now to the second writ petition filed by some of the workmen, I find that learned Tribunal keeping in view over all fact situation and considering that reference case was pending before it since 1988 and that requiring the management of the MNIT to pay all the Mess Employees regular pay scales from the date of their initial appointment or from the date of completion of two years therefrom, may not be justified and therefore to balance the counter claims, it directed that such of mess employees, who have completed two years with the MNIT Management shall be paid minimum of the pay scale of the post held by them w.e.f. 1/1/1997. In

this view of the matter, I do not find any justification for petitioners in SB CWP No.4502/1997 to claim regular pay scale from the date of completion of two years.

6. The material on record clearly indicate that an application under Section 33C(2) of the Industrial Disputes Act was filed before the Labour Court No. I, Jaipur, and the same was disposed of on 12.10.2017. The Labour Court computed the entitlement and held that all those who were appointed after the award dated **04.04.1997** in I.T. Case No. 32/1988 are not entitled for any relief.

7. The petitioner has filed this writ petition only on the ground that all those who have completed two years are entitled to the minimum of the pay scale. Learned Senior Advocate appearing for the petitioner has admitted that the persons from Serial Nos. 1 to 23 and 41 in the list mentioned in paragraph No. 8 have completed the minimum required period of two years to claim the minimum of the pay scale.

8. S.B. Civil Writ Petition Nos. 2988/2004 and 7569/2003 were decided by a Coordinate Bench on 03.04.2017, and while dismissing the writ petitions, it observed as under:-

8. In view of above, nothing further survives in this petition. The writ petition is accordingly disposed of in terms of the judgment passed by this Court dt. 15.02.2010, wherein the Court directed the respondents to pay minimum of the pay scale of the post held w.e.f. 01.01.1997 to those employees who had completed two years of service. The claim of regular pay scale on completion of two years of service however, is not accepted. This observation however, shall not preclude the authorities to take decision at their level relating to regularization of their services.

9. The issue has arisen from the award dated 04.04.1997 in I.T. Case No. 32/1988 passed by the Industrial Tribunal, Jaipur, wherein the award has been passed in the following manner:-

23 अतः प्रकरण में निम्न प्रकार से अवार्ड पारित किया जाता है:

अध्यक्ष मालवीया इंजीनियरिंग कॉलेज मैस कर्मचारी संघ, मयंक टाकीज के पास, श्रम कल्याण केन्द्र, स्टेशन रोड जयपुर द्वारा रजिस्ट्रार मालवीय रीजनल इंजीनियरिंग कॉलेज, जवाहर लाल लेहरू मार्ग जयपुर के समक्ष रखी गई मांग को इस प्रकार निर्णित किया जाता है कि अवार्ड के पैरा सं0 2 में वर्णित सूची के अनुसार सभी श्रमिक मालवीय रीजनल इंजीनियरिंग कॉलेज के ही कर्मचारी (श्रमिक) हैं। उपरोक्त समस्त श्रमिक जिन्हें विपक्षी संस्थान की सेवा में दो वर्ष से अधिक समय पूर्ण हो चुका है, विपक्षी संस्थान में प्रचलित नियमित न्यूनतम पद की न्यूनतम वेतन श्रृंखला दिनांक 01.01.1997 से प्राप्त करने के अधिकारी हैं तथा वे अन्य राज्य सरकार के उपक्रमों की भांति नियमित वेतन श्रृंखला पाने के अधिकारी हैं।

10. The terms of the award clearly indicate that all those workmen who have completed two years are entitled for minimum of the pay scale from 01.01.1997. It simply means that all those workmen who had completed a period of two years are entitled to get minimum of the pay scale prevalent at the relevant time or as subsequently amended. However, the fact is clear that all those who completed two years after 01.01.1997 are not entitled for minimum of the pay scale. While considering Writ Petition No. 8745/2018 on 13.02.2026, we decided the issue after considering the submissions of both the parties.

11. The petitioner organization has filed an application under Section 33-C(2) of the Industrial Disputes Act for computation of the benefits on the basis of the award dated 04.04.1997. The award was upheld by this Court by order dated 15.02.2010. A prayer for regularization was also dismissed by this Court on 03.04.2017. Thus, the rights and entitlement were decided by the award dated 04.04.1997.

12. Admittedly, the scope of Section 33-C(2) of the Industrial Disputes Act is limited to a pre-existing benefit or one flowing from a pre-existing right. It simply means that neither the Labour Court nor this Court can adjudicate anything beyond the terms of the award dated 04.04.1997. The basic qualification is the completion of two years as on 01.01.1997, and unless there is completion of two years, no workmen can claim the minimum of regular pay scale.

13. While disposing of Writ Petition No. 8745/2018 on 13.02.2026, we have already considered the submissions of both the parties and accordingly made it clear that all those who are entitled shall be paid the minimum of the regular pay scale from time to time on the basis of the implementation of the Pay Commission.

14. After considering the judgments in case of **Municipal Corporation of Delhi Vs. Ganesh Rajak, reported in (1995) 1 SCC** and **Union of India & Anr vs Kankuben (Dead) By Lrs. & Ors. Etc. reported in (2006) 9 SCC 292**, the Hon'ble Supreme Court decided an identical issue in **M/s Bombay Chemical Industries versus Deputy Labour Commissioner and Another, reported in (2022) 5 SCC 629**, and held that the benefit sought to be enforced under Section 33-C(2) of the Industrial Disputes Act is necessarily a pre-existing benefit or one flowing from a pre-existing right.

15. In view of the aforesaid, all those persons who had not completed two years as on 01.01.1997 are not entitled to any benefit under Section 33-C(2) of the Industrial Disputes Act. If any workman is aggrieved, he may avail remedies available under

the law, but cannot claim any benefit under an award passed on merits by way of an application under Section 33-C(2) of the Industrial Disputes Act.

16. The other issue before us is that the respondents have paid certain benefits to the petitioners who were not granted benefits under the award. The counsel for the respondents has agreed that if any of the member of petitioner-organization is not entitled and paid allowance till date, then same shall not be recovered or adjusted against any payment of arrears or further payments.

17. Accordingly, the writ petition is disposed of in the following manner:-

(i) The current writ petition is disposed of in accordance with the order dated 13.02.2026 passed in Writ Petition No. 8745/2018, whereby the order dated 12.10.2017 in L.C.C. No. 27/2016 passed by the Labour Court No. 1, Jaipur, was modified.

(ii) In case of any excess payment towards salary or any other allowance till date by the respondents, then same shall not be recovered or adjusted against any payment due in future. There shall be no recovery of any amount from any member of the petitioner-Union.

18. Misc. application(s), if any, stand disposed of.

(ASHOK KUMAR JAIN),J