

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).5691/2006

(From the judgement and order dated 18/08/2005 in WP No. 12774/2005 of the HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

PUNJAB STATE ELECTRICITY BOARD & ORS.

Petitioner(s)

VERSUS

AVTAR SINGH

Respondent(s)

(FOR FINAL DISPOSAL)

Date: 12/03/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Petitioner(s) Mr. Vivek Gupta,Adv.

Mr. Vivek Kishore,Ad.

Mr. Subramonium Prasad,Adv.

Ms. Ruchi Gaur Nirula,Adv.

For Respondent(s)

Mr. Vikas Mahajan,Adv.

Mr. Dharam Bir Raj Vohra,Adv.

UPON hearing counsel the Court made the following

ORDER

Leave granted.

Heard the learned counsel for the parties. The appeal is allowed in terms of the signed order. No costs.

(A.S. BISHT)

(PUSHAP LATA BHARDWAJ) COURT

MASTER

COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2008
[Arising out of SLP(C) No.5691/2006]

PUNJAB STATE ELECTRICITY BOARD AND ORS.

... APPELLANT(S)

:VERSUS:

AVTAR SINGH

... RESPONDENT(S)

ORDER

Leave granted.

Having heard the learned counsel for the parties, we are of the opinion that the application under Section 33C(2) of the Industrial Disputes Act, 1947 was not maintainable.

Learned counsel appearing on behalf of the respondent very fairly states before us that the issue which was raised before the Labour Court was as to whether despite the availability of the workmen, the appellant-Board could refuse to take any work from them without issuing any order of termination of their services. Such an issue, in our opinion, could be the subject matter of an industrial dispute warranting reference by the appropriate Government in terms of Section 10 of the Industrial Disputes Act. In that view of the matter, a proceeding under Section 33C(2) of the Industrial Disputes Act was not maintainable.

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However, the learned counsel appearing on behalf of the respondent also very fairly states that subsequently, an industrial dispute has been raised. If that be so, the contention of the respondent that the appellant-Board was bound to pay his salary for the period from June, 1997 to November, 1999 undisputedly would fall for consideration in the said reference case, being ancillary to the said reference.

The appeal is allowed with the aforementioned observation and direction. No costs.

.....J
(S.B. SINHA)

.....J
(P.P. NAOLEKAR)

NEW DELHI,
MARCH 12, 2008.