

SUPREME COURT OF INDIA

Director General (Works),

Vs.

Ashok Kumar

(S Ahmed and S R Babu JJ.)

11.02.1999

ORDER

1. Pursuant to this Court's judgment in Surinder Singh v. Engineer-in-Chief, CPWD, the appellants admittedly have been paying salary to the daily-rated employees in the regular scale of pay. The dispute in this case, however, is confined to the period from the date of employment till March 31, 1987, i.e. , the period prior to the date on which the decision in Surinder Singh case 1986-I-LLJ-403 (SC) was implemented.
2. Mr. P.P. Malhotra, learned Senior Counsel appearing on behalf of the appellant contended that unless there was an adjudication of the rights of the respondents to receive their salary in the regular scale of pay, their application under Section 33C(2) of the Industrial Disputes Act could not have been entertained and the Labour Court was not justified in allowing the application. He has relied upon the decision of this Court in Municipal Corporation. of Delhi v. Ganesh Razak 1995-I-LLJ-395 (SC) in which it was laid down that the Labour Court has no jurisdiction to first decide the workmen's entitlement and then proceed to compute the benefits so adjudicated on that basis in exercise of its power under Section 33C(2) of the Act. It was also pointed out that it is only when the entitlement has been earlier adjudicated or recognized by the employer that an application under Section 33C(2) would lie.
3. Since in the instant case the appellant himself had implemented the decision of this Court in Surinder Singh case (supra) and had been paying salary to the respondents in the regular scale of pay in which the employees of the work-charged establishment are being paid it cannot be urged today that the respondent's right to receive salary in the regular scale of pay should first be adjudicated upon by the Labour Court before they are given the salary in the regular scale of pay in which the employees of the work-charged establishment are being paid. We are not prepared to

accept the said argument made by learned Counsel. We, therefore, see no reason to interfere with the order passed by the Labour Court. The appeals are dismissed. There shall be no order as to costs.