

SUPREME COURT OF INDIA

Punjab State Electricity Board

Vs.

Avtar Singh

C.A.No.2042 of 2008

(S.B.Sinha, P.P.Naolekar, JJ.)

12.03.2008

ORDER

[Arising out of SLP(C) No.5691/2006]

1. Leave granted.
2. 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.
3. 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.
4. 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.