

PUNJAB AND HARYANA HIGH COURT

Uttam Chand

Vs

Kartar Singh

(M Singh, J.)

16.07.1965

JUDGMENT

Mehar Singh, J.

1. The authority under the Payment of Wages Act, 1936 (Act 4 of 1936), has entertained claim of the respondents for recovery of earned wages, wages in lieu of earned leave, and retrenchment compensation and this on an application under Section 15 of that Act. There was dispute between the respondents and the applicant as employer, and there followed a settlement under Section 12(3) of the Industrial Disputes Act, 1947 (Act 14 of 1947), under which settlement the agreement was that the respondents as employees of the applicant were entitled to the benefits as stated and they were to be retrenched with effect from 18 December 1963. The applicant not having made payment according to the settlement, the respondents made the claim which has been entertained by the authority under the Act. The arrears of earned wages have been paid by the employer. The dispute is thus confined only to wages in lieu of earned leave and retrenchment compensation.

2. The applicant questioned the jurisdiction of the authority to entertain such a claim which was described as unascertained, but the decision has gone against the applicant, the learned authority, repelling the contention on the side of the applicant that under Section 330(2) of Act 14 of 1947 the Jurisdiction for such a claim is with the labour court and not with the authority under Act 4 of 1936. The authority has referred to the definition of the expression " wages " in Section 2(vi) of Act 4 of 1936 and having regard to the same it has come to the conclusion that the claim of the respondents for the two matters in dispute is within the definition of that expression and hence competent before it.

3. In Section 2(vi) of Act 4 of 1936 the inclusive part of the definition of the expression " wages " refers, in Clause (d), to any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made.

The present definition of the expression " wages " has been elaborated but this type of claim was even included in the original definition. A claim like this falls under Section 25P of Act 14 of 1947. This matter previously came for consideration before Bhandari, O.J., in Mehra & Co., Tea

Factory, Amritsar v. Khanayia Lal and Ors. 1956-I L.L.J. 573, and the learned Chief Justice held that a sum payable as retrenchment compensation falls within the expression "wages" in Section 2(vi) of Act 4 of 1936 and particularly in the part of the definition which deals with "any sum payable to such person by reason of termination of his employment," Now the present case is an exact parallel of Mehra & Co. case (vide supra). For a moment I thought that the expression "any sum" in the inclusive Clause (d) in Section 2(vi) refers only to a liquidated and defined sum but I defer to the opinion of the learned Chief Justice that a claim as in the present case is also covered by the expression "wages" as defined in Section 2(vi) of Act IV of 1936. It is true that under Section 33C(2) a claim like this may be decided by the labour court but that provision does not exclude the Jurisdiction of the authority under Section 15 of Act 4 of 1936. Obviously enough the Jurisdiction of the authority is there and it is not correct that the only remedy open to the respondents is to proceed under Section 33C(2) of Act 14 of 1947.

4. The learned Counsel for the applicant has attempted to go into the merits of the claim of the respondents, but In the grounds for revision although the same are ten in number there is repeated challenge to the Jurisdiction of the authority to entertain the claim of the respondents, and there is no question of any argument proceeding on the merits of the case.

5. In these circumstances, this revision application is dismissed with costs.