

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/C/12/2017

Present: P.K.Srivastava

H.J.S. (Retd)

Pratibhuti Kagaj Karkhana Mazdoor
Sangh(A Union registered under the
Trade Unions Act,1926 having its
registration No.4041) 18/1814,
Near C.V.Raman College,
Hill View Homes Colony, Pahadia Road,
Hoshangabad(M.P.)
Through its General Secretary
Mr. Sanjeev Kumar Sangwan.
& 172 Others

Applicant

Versus

The Regional Manager
Security paper Mill,
Hoshangabad.

The General manager,
Security paper Mill
Hoshangabad

Respondent

ORDER

(Passed on this 26-7-2022)

1. A Petition under Section 33(C)(2) of the Industrial Disputes Act,1947, hereinafter referred to by the word 'Act' has been filed by applicants with a case that Pratibhuti Kagaj Karkhana Mazdoor Sangh which is Applicant No.1 through its General Secretary is a Trade Union registered under the Trade Unions Act,1926 and is recognized by Ministry of Labour and employment vide its letter dated 13-5-2015 applicant no.2 is a General Secretary and rest all the applicants are the individual members/Award holders. According to the applicants, Ministry of Finance introduced a Scheme known as Group Incentive Bonus Scheme which came into effect from 1-6-1972 and an agreement was executed in presence of Assistant Labour Commissioner on 11-4-1982. It was provided that an assessment of work of labours and



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production may be made and as per expert report, Incentive Scheme may be made effective. The Management got the assessment done by a firm who filed its report in December-1984 but there was no agreement between the workman Union and the Management on the report. A dispute was raised and following reference was sent by Central Government to this Tribunal for adjudication:

"Whether the action of the Management of Security Paper Mill, Hoshangabad, M.P. in proposing to introduce New Group Incentive Scheme and in withdrawing the existing group incentive Scheme by way of revocation of settlement vide their notice dated 15-3-1986 is justified? If not, to what relief is the workmen entitled?"

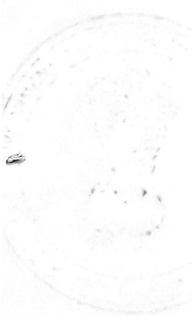
2. A case CGIT/LC/R.48/1986 was registered and Award dated 2-9-1998 was passed by this Tribunal. This award was challenged by management in Writ Petition No.5696/1998 before Hon'ble High Court which was dismissed on 31-1-2006. Special Leave petition No.8123/2006 filed before Hon'ble the Apex Court was also dismissed vide order dated 8-12-2006 thus the aforesaid award dated 2-9-1998 is final between the parties. Some Members of the Union i.e. One Shri M.M.Dhimole and 70 Other persons filed a petition in their individual capacity before Regional Labour Commissioner (Central) Jabalpur, they claimed apart from the Award other benefits which were not part of the Award. Therefore, the execution petition was dismissed by the Regional Labour Commissioner (Central) Jabalpur. The then Office Bearers of the Union did not initiate the proceedings for execution of the Award though on 17-11-2005 a letter had been issued for implementation of Scheme in view of the interim order passed by the Hon. High Court regarding payment of 50% of the amount which was paid also by the Management. Election of the Union was made in the year 2015 and New Office Bearers were elected. Thereafter the Union took up the case and took steps for execution of the said award first. The workman Union filed an Intervenor application before Hon. High Court in W.P.No.2657/2012 which was filed by the workman M.M.Dhimole and 74 other persons against the order of Regional Labour Commissioner(Central) dated 22-6-2011 dismissing their petition under Section 33-C(2) of the Act. This Intervenor application was initially allowed by Hon. High Court vide order dated 11-7-2014

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but was recalled and petition was dismissed vide order dated 5-8-2016. Thereafter the applicants have filed this petition under Section 33-C(2) of the Act for execution of the Award. Accordingly the applicants have prayed that the Management be directed to compute the amount to be paid as per the Award dated 2-9-1990 along with the rate of interest mentioned in the Award itself.

3. The Management has contested the petition with a case that earlier applicant Award Holder M.M.Dhimole and Others in their individual capacity filed application for execution of Award. They also claimed other benefits but the same was dismissed. The present applicants' never preferred any application for execution of Award. The Management refuted the application of the applicant Award holders with a case that the earlier Office Bearers of the Union did not initiate any proceedings for execution of Award and claimed ignorance regarding letter of management dated 17-11-2005 with respect to payment of 50% of amount in compliance of interim order of Hon'ble High Court. It is further stated that the amount under Award has already been paid. Accordingly, the Management has prayed that the petition be dismissed.

4. The applicants have also filed an application for condonation of laches in filing the petition for execution of Award wherein they have stated that the earlier Office Bearers of the Union were hand in glove with the management and they did not initiate appropriate proceedings before appropriate forum for execution of the Award. In fact the earlier Office Bearer wherein agreement with the Members of the Union that 15% of the amount was to be paid to the Union, as expenses of the proceedings. Thus there was a dispute between the Members of the Union and the then Office Bearers of the Union, therefore the appropriate action was not taken by the earlier Office Bearers of the Union inspite of the fact that the Award has been up held even by Hon'ble the Apex Court and is final between the parties. Also it was stated that the workman M.M.Dhimole and 74 Other workman belonging to the rival Union filed petition under Section 33-C(2) of the Amount before Regional Labour Commissioner(Central) for execution.


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of Award and some other benefits beyond the Award which was dismissed by the Regional Labour Commissioner(Central), before whom it was filed. The Then Shri M.M.Dhimole along with the 74 applicants preferred a Writ Petition No.2647/2012 before Hon'ble High Court. The New Officer Bearer of the Union i.e. Applicant No.2 its General Secretary filed an application for intervention seeking relief of impleadment in the said writ which was earlier allowed by Hon'ble High Court but was dismissed by a subsequent order. Thereafter, the applicants have filed this petition before this Tribunal. According to the applicants, the delay is thus liable to be condoned and they have prayed accordingly.

5. In the reply to the application for condoning delay, the Management has taken a case that there is no provision in the Act as such for condoning delay.

6. At the time of argument, none appeared from the side of the appellants hence, I have heard arguments of Mr. Anand Kumar Naik, learned counsel appearing for Management. Applicants' have filed a written synopsis of argument which is taken on record. I have gone through the synopsis. Since these two applications as mentioned above are interconnected, they are being taken together

7. Section 33-C(1) and Section 33-C(2) of the Industrial Disputes Act, 1947 reads as under:-

33C. Recovery of money due from an employer.—

(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of [Chapter VA or Chapter VB], the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue: Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate

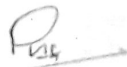


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Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government; [within a period not exceeding three months:] [Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.]

8. A bear perusal of this provision makes it clear that period of limitation required for filing an application for recovery of an amount under Award is one year from the date of Award or from the date the money became due to the workman from the employer. This application under Section 33-C(1) is to be filed before the appropriate Government. That is to say that an application for recovery of another amount under Award is to be filed by the Award Holder before the Appropriate Government as per Section 33-C(1) whereas an application to compute the amount or any monetary benefit to which the workman/Award holder is entitled to receive from the Employer under the Award or settlement, is to be filed before this Tribunal. No period for limitation for filing an application under Section 33-C(3) is mentioned in the Award. The Award became final after dismissal of SLP against it by Hon'ble the Apex Court on 8-12-2006. Thus any claim regarding any amount due and accrued to the applicant workman from 8-12-2006 would be and become final between the parties. It has been stated on affidavit that the earlier Union did not take interest for recovery or computation of the amount and it was only when the New Office Bearer of the Union were elected they approached first before Hon'ble High Court as Intervenor for being impleaded as a party in the Writ Petition pending before Hon'ble High Court(details mentioned above) and after their application, which was once allowed by Hon'ble High Court was dismissed recalling the order allowing the application vide order dated 5-8-2016, they approached this Tribunal. These facts are not disputed fromm the side of the Management except on the point that according to the management, the earlier Office Bearers also took



steps for realization of the claim under the said Award. Thus in the light of these factual scenario, the petition is held not barred by latches.

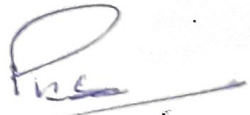
9. As regards, the computation of the amount, the applicant Award holders have claimed the amount to be computed in the light of the Award itself. According to the Management, the amount has already been paid as per the Award. In paragraph-11 of the petition the applicant Award Holders stated that 50% of the amount has been paid. They have filed (Annexure A-5) in this respect. Annexure (A-5) a general information No.49 dated 17-11-2005 wherein it has been stated that payment of 50% of amount in the light of Group Incentive Scheme 1972 is considered and the workmen were required to file undertaking as required by the Management in this respect. Since according to the applicant-workman/Award Holders themselves admitted that payment of 50% of the amount under the Award has been made to them but there is no evidence on record filed by Management that the remaining amount under the Award has also been paid. The claim of the applicant/workman that they are required to be paid the whole amount under the Award is held proved. In the light of these facts, the Management is under obligation to compute the amount and the interest thereon, if any, according to the Award mentioned above and to pay it to the applicant workman and the Management is directed accordingly.

10. **The application stands disposed accordingly.**

No order as to costs.



Date:-26-7-2022


(P.K.SRIVASTAVA)
PRESIDING OFFICER