

**BEFORE CENTRAL GOVT. INDUSTRIAL-TRIBUNAL CUM-  
LABOUR COURT NO-II, NEW DELHI**

**I.D. No. 115/2020**

**Application U/s 33-A**

**R.K Singh V/S Union Bank of India**

*Counsels:*

*For Claimant: Sh. S.A Sebastian*

*For Respondent: Sh. Rajat Arora*

**Order Dated- 15.07.2024**

This order shall dispose of an application filed by the workman for payment of subsistence allowance and interim relief during the pendency of the proceedings. It is the stand of the workman that he has been the concerned workman in five industrial disputes pending between the workman and the same management. During the pendency of industrial dispute, his services were terminated by the management on 27.08.2019. Workman had not filed any application U/s 33 (2) (b) of the I.D Act. According to him Union Bank of India employee union of which applicant has been the general secretary vide letter dated 01.04.2019 called upon the management to declare as office bearer of the union, including the applicant as protected workman, but, however, the management failed to respond to the same under rule 61(2) of the Industrial Disputes (Central) Rules 1957. Hence, he has been confirmed as protected workman. He submits that he is the only earning member of the family. He has no means of subsistence. His children are not settled in life and are undergoing university education for which he has no means. So he submits that this tribunal directed the management to make payment of subsistence allowance @ 75% of his last drawn wages by way of interim award in the interest of justice.

The respondent herein has filed the reply opposing the prayer of the claimant. As per respondent, applicant has been imposed the punishment of 'Compulsory Retirement with superannuation benefits' vide order dated 27.08.2019. The case is at the stage of framing issues and thereafter evidence of the parties. Applicant had already raised a reference with regard to his

punishment of 'Compulsory Retirement with superannuation benefits' by raising a reference U/s 10 of the I.D Act, which is pending adjudication before this tribunal as I.D No. 124/2021. The present application U/s 33 was filed by the applicant on or about 17.08.2020. However, subsequent to the filing of the present application U/s 33-A, the reference U/s has been raised by the applicant in October, 2021. He has been paid his retirement benefit amounting of Rs. 23,70,303.08/- (Twenty Three Lakhs Seventy Thousand Three Hundred Three and paid Eight only) on 19.10.2019. He has been given the pension of Rs. 35,143 p.m from the date of his punishment. Therefore, there is no financial crunch being faced by the claimant and hence the application be rejected. The very nature of the subsistence allowance is for the applicant to sustain himself during the litigation, but herein monetary dues of the claimant of Rs. 23,70,303.08 were paid and he was also getting pension. He submits that application be dismissed with cost being frivolous in nature.

I have heard the argument at bar and perused the record. Whole basis of filing this application is that his services have been terminated by the bank and there is no need of filing the separate application U/s 33-A of the I.D Act 1947. If the industrial disputes has already been pending either before conciliation officer, court or tribunal. According to him industrial disputes has been pending between him and the bank and his services have been terminated. So, his services be declared terminated illegally. Till the issues have been decided. He be given the subsistence allowance, because, he has been facing financial crunches.

It is a matter of fact herein that the reference in this regard had already been received before this tribunal and in the reference received is against the illegal termination for adjudication. Ld. Counsel for the applicant is not able to show any connection between the cases filed by the applicant/union and the punishment imposed herein. If the change of services is unrelated to the cause of which the petition is pending either before conciliation officer, court or tribunal, then also no permission is required. U/s 33-A & U/s 33 (2) (b) of the I.D Act, definitions of which are shown herein:

**33- (2) (b)-For any misconduct not connected with the dispute, or discharge or punish, whether by dismissal or otherwise, that workman:**

**Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.**

**33-A- Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.-** where an employer contravenes the provisions of Section 33 during the pendency of proceedings [before a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal], any employee aggrieved by such contravention , may make a complaint in writing, [in the prescribed manner, -

(a) to such conciliation officer of Board, and the conciliation officer or Board shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and

(b) to such arbitrator, Labour Court, Tribunal or National Tribunal and on receipt of such complaint, the arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit his or its award to the appropriate Government and the provisions of this Act shall apply accordingly.]]

Moreover, the subsistence allowance is sought by the claimant for financial support, however, he has been getting pension beside the amount of Rs. 23,70,303.08/- which he has received as dues because he has been

compulsory retired from the service. So far as the compulsory retirement is concerned, claimant has filed the claim, but, his claim was resulted into failure by the concerned tribunal.

In these circumstances, I do not find any merit in the application filed by the applicant with the prayer that subsistence allowance be provided. Hence his application stand dismissed. Order accordingly.

ATUL KUMAR GARG  
Presiding Officer  
CGIT-cum- labour court-II