

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) NOS. 22544/2005 & 21921/2005**

% **Reserved on : 17.03.2009**
Date of Decision : 31.03.2009

1. W.P.(C) NO. 22544/2005

INDRAPRASTHA POWER GENERATION COMPNAY Petitioner
LTD.

Through Mr. Vinay Sabharwal, Advocate

Versus

SH. P.C. JAIN & ANR. Respondents

Through Counsel for the respondents
(appearance not given).

AND

2. W.P.(C) NO.21921/2005

INDRAPRASTHA POWER GENERATION COMPNAY
LTD. Petitioner

Through Mr. Vinay Sabharwal, Advocate

Versus

SH. ASHOK KUMAR & ANR. Respondents

Through Counsel for the respondents
(appearance not given).

CORAM:
HON'BLE MR. JUSTICE V.K. SHALI

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|----|---|----|
| 1. | Whether reporters of Local papers may be allowed to see the judgment? | NO |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

V. K. SHALI, J.

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1. This order shall disposed of the writ petitions bearing W.P.(C) No.22544/2005 in the case titled as **Indraprastha Power Generation Company Ltd. Vs. Sh. P.C. Jain & Anr.** and W.P.(C) No. 21921/2005 in the case titled as **Indraprastha Power Generation Company Ltd. Vs. Sh. Ashok Kumar & Anr.** In both the writ petitions, the learned Labour Court has passed award dated 19th January, 2005 directing the payment to be made to the respondents/workmen with regard to the revised pay scales and the subsequent arrears for the period 1st April, 1971 to 31st March, 1991. However, it was observed that as the matter was sub-judice till 20th September, 1988 and it was finally decided by the Hon'ble Supreme Court, therefore, the respondents/workmen are entitled to interest for the subsequent period to the decision by the Hon'ble Supreme Court from the year 1989 till the date of filing of their LCA @ 6% per annum.

2. For the purpose of grant of interest the learned Labour Court has relied upon on the judgments of the learned Single Judge of Allahabad High Court in the case titled **Union of India Vs. S. B. Agnihotri** LLJ (1991) 603 and **Krishnamurthi (A.) and others Vs. The Mail** 1964 ILR 696.

3. I have heard the learned counsel for the parties and perused the record. The main contention of the learned counsel for the petitioner is that there is no dispute about the fact that in the instant case the respondents/workmen had filed an application under Section 33-C(2) of the Industrial Disputes Act, 1947 and the proceedings under the aforesaid provision are in the nature of execution proceeding for

recovery of arrears of wages claimed by the respondents/workmen and the Court while calculating the said wages of the respondents/workmen could not have granted the interest as there was no earlier adjudication or recognition by the employer of an existing right on the part of the respondents/workmen to such an interest. The learned counsel for the petitioner has drawn my attention to the judgment of the learned Single Judge of this Court in WP (C) No. 21620/2005 in the case titled **Indraprastha Power Generation Company Ltd. Vs. Ishwari Devi** wherein the facts were similar and the award passed was assailed right up to the Hon'ble Supreme Court as in the case right in hand. In the said decided case also, the interest was granted by the learned Labour Court on the basis of the two judgments of the learned Single Judges of Allahabad and Madras High Courts which have been considered in extenso along with the other judgments of the Apex Court by the learned Single Judge of this Court and it has come to the finding that under Section 33-C(2) of the Industrial Disputes Act, 1947 unless and until there is a prior adjudication or recognition of a right to receive the amount by the respondents/workmen the same cannot be granted by way of interest by the learned Labour Court. This point is no more in dispute as it has been settled by the judgment of this Court in Ishwari Devi's case (supra).

4. The learned counsel for the respondents/workmen has not cited any judgment to the contrary which will persuade this Court to entertain a different view than the one which has been already given by

the learned Single Judge of this Court in the aforesaid WP(C) No. 21620/2005.

5. I, accordingly, feel that the learned Labour Court in both aforesaid awards has grossly erred by directing on 19th January, 2005 the grant of interest @ 6% after 1989 till the time of filing of the LCA by the respondents/workmen in their individual cases. I, therefore, set aside the said portion of the award of the learned Labour Court whereby the interest has been directed to be paid to the respondents/workmen by the learned Labour Court. To that extent, both the writ petitions are allowed.

No order as to costs.

MARCH 31st, 2009
KP

V.K. SHALI, J.