

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.5088 of 1994

Date of Decision : 31.10.2014

Subhash Chand Verma

....Petitioner

Versus

The Presiding Officer, Industrial Tribunal-
cum-Labour Court, Hissar and another

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

Present: Mr. Ashok K.Sharma, Advocate
for the petitioner.

Mr. K.K.Gupta, Advocate
for respondent No.2.

.....

MAHESH GROVER, J.

The petitioner impugns the award of the Labour Court, Hissar passed in exercise of its jurisdiction under Section 33-C(2) of the Industrial Disputes Act, 1947 (in short 'the Act').

The petitioner claimed benefit of the pay which had already been fixed, but the benefit was not given for a period of 66 days on account of the circular issued by the respondent No.2 stating that no benefit of pay would be admissible to any employee who had participated in the strike.

The respondent No.2 stated that there is no predetermined award which would warrant an application under

Section 33-C(2) of the Act and the circular itself depriving the petitioner of the pay for 66 days was never challenged.

The Tribunal noticed the following two issues :-

- 1) Whether the circular dated 4.4.81 and the subsequent circular dated 4.12.82 (Ex.M-2) and M-5 respectively) treating the period of strike as leave without pay and advancing the date of next increment of all such employees, issued by competent authority, are illegal and are to be ignored.
- 2) Whether the workman had to be given opportunity to exercise his option afresh as argued by Shri S.S.Gupta, A.R.of the workman after the strike period was treated as without pay and after the date of increment stood extended.

A conclusion was arrived at by the Tribunal that the aforesaid points were never determined earlier and thus the exercise of jurisdiction under Section 33-C(2) of the Act was declined.

On due consideration of the matter, I do not find any infirmity committed by the Labour Court, Hissar as no existing right or incidental benefit stood determined so as to entitle the petitioner to invoke the proceedings under Section 33-C(2) of the

Act.

No ground to interfere.

Dismissed.

31.10.2014
dss

(MAHESH GROVER)
JUDGE