PART VIII

EXECUTION OF EXISTING RIGHTS

CENTRAL BANK OF INDIA v. RAJAGOPALAN
A.I.R. 1964 S.C. 743

[Four clerks employed in the bank were assigned in addition to their normal duties as clerks, the duty to operate the adding machine provided for use in the bank. They claimed that for such extra work they were entitled to payment of Rs. 10/- per month as special allowance as provided in para 164-b (1) of the Shastry Award and accordingly filed an application under Section 33 C (2) of the Industrial Disputes Act for ascertainment of the benefit receivable by them under the said provision of the award. The bank disputed their claim, and it was urged as a preliminary objection that such a claim which required adjudication was outside the purview of S. 33 C (2). The Central Government Labour Court before which these applications were made by the respondents overruled the preliminary objections raised by the bank and on the merits found that the said clerks were entitled to the special allowance under the relevant clause of the Sastry Award. The bank thereupon preferred an appeal by special leave against this order. Excerpts from the judgment of the Court, delivered by Gajendragadkar. J., follow :]

The principal contention which has been urged before us by the appellant is one of jurisdiction. It is argued that the Labour Court has exceeded its jurisdiction in entertaining the applications made by the respondents because the claims made by the respondents in their respective applications are outside the scope of S. 33 C (2) of the Act....

It is urged by the appellant that sub-section (2) can be invoked by a workman who is entitled to receive from the employer the benefit there specified, but the right of the workman to receive the benefit has to be admitted and could not be a matter of dispute between the parties in cases which fall under sub-sec. (2).... In other words, the contention is that the opening words of sub-section (2) postulates the existence of

an admitted right vesting in a workman and do not cover cases where the said right is disputed.

On the other hand, the respondents contend that sub-section (2) is broad enough to take in all cases where a workman claims some benefit and wants the said benefit to be computed in terms of money.... On this argument all questions arising between the workmen and their employers in respect of the benefit which they claim to be computed in terms of money would fall within the scope of sub-sec. (2). (The Court referred to the legislative history of the Act and held :)

The legislative history of the Act to which we have just referred clearly indicates that having provided broadly for the investigation and settlement of industrial disputes on the basis of collective bargaining, the legislature recognised that individual workman should be given a speedy remedy to enforce their existing individual rights and so, inserted S. 33 A in the Act in 1950 and added S. 33-C in 1956. These two provisions illustrate the cases in which individual workmen can enforce their rights without having to take recourse to S. 10 (1) of the Act or without having to depend upon their Union to espouse their cause. Therefore, in construing S. 33-C we have to bear in mind two relevant considerations. The construction should not be so broad as to bring within the scope of S. 33-C cases which would fall under S. 10 (1).... Similarly, having regard to the fact that the policy of the Legislature in enacting S. 33-C is to provide a speedy remedy to the individual workmen to enforce or execute their existing rights, it would not be reasonable to exclude from the scope of this section cases of existing rights which are sought to be implemented by individual workmen. In other words, though in determining the scope of S. 33-C we must take care not to exclude cases which legitimately fall within its purview, we must also bear in mind that cases which fall under S. 10 (1) of the Act for instance, cannot be brought within the scope of S. 33-C....

The claim under Section 33-C (2) clearly postulates that the determination of the question about computing the benefit in terms of money, may, in some cases, have to be preceded by an enquiry into the existence of the right and such an enquiry must be held to be incidental to the main determination which has been assigned to the Labour Court by sub-section (2)... S. 33-C (2) takes within its purview cases of workmen who claimed that the benefit to which they are entitled should be computed in terms of money, even though the right to the benefit on which their claim is based is disputed by their employers....

It is however, urged that in dealing with the question about the existence of a right set up by the workman, the Labour Court would

necessarily have to interpret the award or settlement on which the right is based, and that cannot be within its jurisdiction under Sec. 33-C (2) because interpretation of awards or settlements has been specifically and expressly provided for by S. 36 A....

[T]he scope of S. 36 A is different from the scope of S. 33-C (2), because S. 36 A is not concerned with the implementation or execution of the award at all, whereas that is the sole purpose of S. 33-C (2). Whereas S. 33 C (2) deals with cases of implementation of individual rights of workmen falling under its provisions, S. 36 A deals merely with a question of interpretation of the award where a dispute arises in that behalf between the workmen and the employer and the appropriate Government is satisfied that the dispute deserves to be resolved by reference under S. 36 A.

Besides, there can be no doubt than when the Labour Court is given the power to allow an individual workman to execute or implement his existing individual rights, it is virtually exercising execution powers in some cases, and it is well settled that it is open to the Executing Court to interpret the decree for the purpose of execution. It is, of course, true that the Executing Court cannot go behind the decree, nor can it add to or subtract from the provision of the decree. These limitations apply also to the Labour Court, but like the Executing Court, the Labour Court also would also be competent to interpret the award or settlement on which a workman bases his claim under S. 33-C (2). Therefore, we feel no difficulty in holding that for the purpose of making the necessary determination under S. 33-C (2), it would, in appropriate cases, be open to the Labour Court to interpret the award or settlement on which the workman's right rests....

[I]n enacting S. 33-C the legislature has deliberately omitted some words which occurred in S. 20 (2) of the Industrial Disputes (Appellate Tribunal) Act. 1950. It is remarkable that similar words of limitation have been used in S. 33-C (1) because S. 33-C (1) deals with cases where any money is due under a settlement or an award or under the provisions of Chapter VA. It is thus clear that claims made under S. 33-C (1), by itself can be only claims referable to the settlement, award, or the relevant provisions of Chapter VA. These words of limitation are not to be found in S. 33-C (2) and to that extent, the scope of S. 33-C (2) is undoubtedly wider than that of S. 33-C (1)... There is no doubt that the three categories of claims mentioned in S. 33-C (1) fall under S. 33-C (2) and in that sense, S. 33-C (2) can itself be deemed to be a kind of execution proceeding, but it is possible that claims not based on settlements, awards or made under the provisions of Chapter VA, may also be

competent under S. 33-C (2) and that may illustrate its wider scope. We would, however, like to indicate some of the claims which would not fall under S. 33-C (2).... If an employee is dismissed or demoted and it is his case that the dismissal or demotion is wrongful, it would not be open to him to make a claim for the recovery of his salary or wages under S. 33-C (2). His demotion or dismissal may give rise to an industrial dispute which may be appropriately tried, but once it is shown that the employer has dismissed or demoted him, a claim that the dismissal or demotion is unlawful and, therefore, the employee continues to be the workman of the employer and is entitled to the benefits due to him under a pre-existing contract, cannot be made under S. 33-C (2). If a settlement has been duly reached between the employer and his employees and it falls under S. 18 (2) or (3) of the Act and is governed by S. 19 (2), it would not be open to an employee notwithstanding the said settlement, to claim the benefit as though the said settlement had come to an end. If the settlement exists and continues to be operative, no claim can be made under S. 33-C (2) in consistent with the said settlement. If the settlement is intended to bc terminated, proper steps may have to be taken in that behalf and a dispute that may arise thereafter may be dealt with according to the other procedure prescribed by the Act.... In this connection, we may incidentally state that the observations, made by this Court in the case of *Punjab National Bank Ltd.*... (AIR 1963 S.C. 487) that S. 33-C is a provision in the nature of execution should not be interpreted to mean that the scope of S. 33 C (2) is exactly the same as S. 33 C (1).... (at pp. 489-90)....

We have had occasion in the past to emphasise the fact that industrial adjudication should not encourage unduly belated claims, but on the other hand, no limitation is prescribed for an application under S. 33 C (2) and it would, on the whole, not be right for us to refuse an opportunity to the respondents to prove their case only on the ground that they moved the Labour Court after considerable delay....

[Appeals were allowed and cases remanded to the Labour Court for disposal in accordance with law].

PAYMENT OF WAGES INSPECTOR v. SURAJMAL MEHTA

Supreme Court, (1969) I L.L.J. 762

[The undertaking of the company was taken over by the Madhya Pradesh State Electricity Board. Consequently the company terminated the services of its employees. The Payment of Wages Inspector filed an application on behalf of the employees of the company under Section 15(2) of the Payment of Wages Act claiming notice-pay and retrenchment

compensation under Section 25FF of the Industrial Disputes Act. The company, *inter alia*, contended that the workers were not entitled to any compensation as the conditions laid down in the proviso to Section 25FF of the Industrial Disputes Act were satisfied in the case. Hence, the authority had no jurisdiction to decide such claim. The Payment of Wages Authority decided the preliminary issue in regard to jurisdiction in favour of the applicant. The writ petition preferred by the company for getting the order of the authority quashed was allowed by the High Court which held that S. 15(2) of the Payment of Wages Act could not cover such claim and that the proper forum for such an application was the labour court under S. 33(C)(2) of the Industrial Disputes Act. The Payment of Wage Authority preferred an appeal by special leave. Excerpts from the judgment of the Court, delivered by Shelat, J., follow :]

While considering the scope of jurisdiction of the authority under S. 15 of the Payment of Wages Act, it is relevant to bear in mind the fact that the right to compensation is conferred by the Industrial Disputes Act which itself provides a special tribunal for trying cases of individual workmen to whom compensation payable under Chap. V-A has not been paid. Section 33C of the Industrial Disputes Act provides both a forum and the procedure for computing both monetary as well as non-monetary benefits in terms of money and further provides machinery for recovery of such claims....It is thus clear that a workman whose claim, monetary or otherwise, is disputed by his employer can lodge such a claim, before a specified labour court under S. 33C and obtain an inexpensive and expeditious remedy....

It is explicit from the terms of S. 15(2) that the authority appointed under Sub-sec. (1) has jurisdiction to entertain applications only in two classes of cases, namely, of deductions and fines not authorised under Ss. 7 to 13 and of delay in payment of wages beyond the wage-periods fixed under S. 4 and the time of payment laid down in S. 5.... S. 15(2) postulates that the wages payable by the person responsible for payment under S. 3 are certain and such that they cannot be disputed....

The question, therefore, is whether on the footing that compensation payable under Ss. 25FF and 25FFF of the Industrial Disputes Act being wages within the meaning of S. 2(vi) (d) of the Act, a claim for it on the ground that its payment was delayed by an employer could be entertained under S. 15(2) of the Act. In our view it could not be so entertained. In the first place, the claim made in the instant case is not a simple case of deductions having been unauthorizedly made or payment having been delayed beyond the wage-periods and the time of payment

fixed under Ss. 4 and 5 of the Act. In the second place, in view of the defence taken by respondent 1, the authority would inevitably have to enter into questions arising under the proviso to S. 25FF, viz., whether there was any interruption in the employment of the workmen, whether the conditions of service under the Board were any the less favourable than those under the company and whether the Board, as the new employer, had become liable to pay compensation to the workmen if there was retrenchment in the future....[T]he failure to pay compensation on the ground of such a plea cannot be said to be either a deduction which is unauthorized under the Act, nor can it fall under the class of delayed wages as envisaged by Ss. 4 and 5 of the Act.....

[W]e do not think that a claim for compensation under S. 25FF which is denied by the employer on the ground that it was defeated by the proviso to that section, of which all the conditions were fulfilled, is one such claim which can fall within the ambit of S. 15(2). When the definition of wages was expanded to include cases of sums payable under a contract, instrument or a law, it could not have been intended that such a claim for compension which is denied on grounds which inevitably would have to be inquired into and which might entail prolonged inquiry into questions of fact as well as law was one which should be summarily determined by the authority under S. 15. Nor could the authority have been intended to try as matters incidental to such a claim questions arising under the proviso to S. 25FF. In our view it would be the labour court in such case which would be the proper forum which can determine such questions under S. 33C(2) of the Industrial Disputes Act which also possesses power to appoint a commissioner to take evidence where questions of fact require detailed evidence....

(Appeal dismissed.)

UTTAR PRADESH ELECTRIC SUPPLY COMPANY LTD. v. SHUKLA (R.K.) AND ANOTHER
A.I.R. 1970 S.C. 237

[The license granted to U.P. Electric Supply Company for generating and diitributing electricity within the towns of Allahabad and Lucknow was not renewed after it expired in 1964. Pursuant to the powers granted under Indian Electricity Act, 1910, the State Electricity Board, U.P. took over the undertaking of the company in the two towns with effect from September 16, 1964. A day later it also took over in the employment all the workmen of the company in the two towns without any break in the continuity of their services. The workmen, however, applied for computation of benefits under Section 6H(2) of the U.P. Industrial

Disputes Act, 1947, corresponding to Section 33C(2) of the Industrial Disputes Act for payment of retrenchment compensation and salary in lieu of notice under Section 6-O in as much as they alleged that the Board had not given them credit for their past services with the company. The labour court having granted the claim, the company preferred an appeal by special leave to the Supreme Court. Excerpts from the judgment of the Court, delivered by Shah, J., follow :]

Prima facie, disputes relating to retrenchment of workmen and closure of establishment fall within the exclusive competence of the Industrial Tribunal, and not within the competence of the Labour Court constituted under Section 4A. The Company had expressly raised a contention that they had not retrenched the workmen and that the workmen had voluntarily abandoned the Company's service by seeking employment with the Board even before the Company closed its undertaking.

The workmen contended by their petitions filed before the Labour Court that they were retrenched, the Company contended that the workmen had voluntarily abandoned the employment under the Company because they found it more profitable to take up empioyment under the Board without any break in the same posts and on the same terms and conditions on which they were employed by the Company. This clearly raises the question whether there was retrenchment of workmen, which gave rise to liability to pay retrenchment compensation. A dispute relating to retrenchment is exclusively within the competence of the Industrial Tribunal by virtue of item 10 of the Second Schedule to the Uttar Pradesh Industrial Disputes Act, and is not within the competence of the Labour Court. . . .

[The Court then pointed out that the decision in Punjab National Bank Ltd. v. K.L. Kharbanda A.I.R. 1964 S.C. 743] makes it clear that all disputes relating to claims which may be computed in terms of money are not necessarily within the terms of Section 33C(2).] . . . . In Chief Mining Engineer, East India Coal Company Ltd., v. Rameshwar A.I.R. 1968 S.C. 218, Shelat, J., observed :

> ". . . . that the right to the benefit which is sought to be computed [under Section 33C(2)] must be an existing one, that is to say, already adjudicated upon or provided for and must arise in the course of and in relation to the relationship between an industrial workman and his employer. . . ."

That judgment clearly indicates that in order that a claim may be adjudicated upon under Section 33C(2), there must be an existing right and the

right must arise under an award, settlement or under the provisions of Ch. V-A, or it must be a benefit provided by a statute or a scheme made thereunder and there must be nothing contrary under such statute or Sec. 33C(2). But the possibility of a mere claim arising under Chapter V-A is not envisaged by the Court in that case as conferring jurisdiction upon the Labour Court to decide matters which are essentially within the jurisdiction of the Industrial Tribunal.

The legislative intention disclosed by Ss. 33C(1) and 33C(2) is fairly clear. Under S. 33C(1) where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter V-A, the workman himself, or any other person authorised by him in writing in that behalf, may make an application to the appropriate Government to recover the money due to him. Where the workman who is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money, applies in that behalf, the Labour Court may under S. 33C(2) decide the questions arising as to the amount of money due or as to the amount at which such benefit shall be computed. Section 33C(2) is wider than S. 33C(1). Matters which do not fall within the terms of S. 33C(1) may, if the workman is shown to be entitled to receive the benefits, fall within the terms of S. 33C(2). If the liability arises from an award, settlement or under the provisions of Chapter V-A, or by virtue of a statute or a scheme made thereunder, mere denial by the employer may not be sufficient to negative the claim under S. 33C(2) before the Labour Court. Where however the right to retrenchment compensation which is the foundation of the claim is itself a matter which is exclusively within the competence of the Industrial Tribunal to be adjudicated upon on a reference, it would be straining the language of S. 33C(2) to hold that the question whether there has been retrenchment may be decided by the Labour Court. The power of the Labour Court is to compute the compensation claimed to be payable to the workmen on the footing that there has been retrenchment of the workmen. Where retrenchment is conceded, and the only matter in dispute is that by virtue of S. 25FF no liability to pay compensation has arisen, the Labour Court will be competent to decide the question. In such a case the question is one of computation and not of determination, of the conditions precedent to the accrual of liability. Where, however, the dispute is whether workmen have been retrenched and computation of the amount is subsidiary or incidental, in our judgment, the Labour Court will have no authority to trespass upon the powers of the Tribunal with which it is statutorily invested. . . .

[Board of Directors of the South Arcot Electrity Distribution Company, Ltd. v. N.K. Mohammad Khan and Others (Civil Appeals

Nos. 2455 and 2540 of the 1966, dated 25 November 1966) . . . . distinguished on facts.]

Assuming that the Labour Court had jurisdiction to determine the liability of the Company to pay retrenchment compensation no order awarding retrenchment compensation could still be made without recording a finding that there was retrenchment of the workmen and compensation was payable for retrenchment. . . .

The Labour Court could award compensation only if it determined the matter in controversy in favour of the workmen; it could not assume that the conditions of the proviso to S. 6-O were fulfilled. Section 6-O is in terms negative. It deprives the workmen of the right to retrenchment compensation in the conditions mentioned therein. The Company asserted that the conditions precedent to the exercise of jurisdiction did not exist. The workmen asserted the existence of the conditions. Without deciding the issue, the Labour Court could not compute the amount of compensation payable to the workmen on the assumption that the workmen had been retrenched and their claim fell within the proviso to S. 6-O....

Even if, therefore, the Labour Court was competent to entertain the dispute relating to award of retrenchment compensation, the order made by the Labour Court must be set aside....

(Appeals allowed.)

M/S. VOLTAS LTD. v. J. N. DE MELLOW AND ANOTHER

Supreme Court, (1971) 2 L.L.J. 307

[The workman claimed dearness allowance by filing an application under Section 33C(2) of the Industrial Disputes Act, 1947, on the basis of certain award, which according to the workman replaced the earlier scheme to that effect. The management contended that though the later award modified the earlier scheme for payment of dearness allowance it did not affect the maximum ceiling of Rs. 350/- fixed under the scheme and therefore the workman would not be entitled to dearness allowance beyond Rs. 350/-.

The Labour Court accepted the managements's contention. In the writ petition preferred by the workman, against the order of the Labour Court the High Court held that the Labour Court exceeded its jurisdiction, and that the management was estopped from contending that the ceiling at Rs. 350/- was a bar to the workman's claim for dearness allowance beyond Rs. 350/-. The company appealed. Excerpts from the judgment of the Court delivered by Shelat, J., follow :]

The question as to the scope of jurisdiction of a Labour Court under S. 33C(2) has been a subject-matter of several decisions of this Court. It is not necessary to go into these decisions once again as in Chief Mining Engineer, East India Coal Co. Ltd., v. Rameshwar, (1968-I L.L.J. 6); (1968)1 S.C.R. 140, all those decisions were examined and the propositions deducible from them were formulated. As stated in propositions (5) and (8), proceedings under S. 33C (2) are analogous to execution proceedings and a Labour Court called upon to compute benefits claimed by a workman is in the position of an executing court and as such competent to interpret an award where there is a dispute as to the rights thereunder or as to its correct interpretation. Obviously, if the award is unambiguous the Labour Court is bound to enforce it, and under the guise of interpreting it, it cannot make a new award by adding to or subtracting anything therefrom....As held in The Central Bank of India v. Rajagopalan, (1963—II L.L.J.89) : (1964) 3 S.C.R. 140, a claim under S. 33C(2) postulates that the determination of the question about computing in terms of money may in some cases have to be preceded by an inquiry into the existence of the right. Such an inquiry is incidental to the main determination assigned to the Labour Court by that sub-section.... The principal controversy between the parties, as is clear from the opening paragraphs of the judgment of the Labour Court, was whether the scheme of dearness allowance, as revised by the Tribunal, contained the ceiling....[T]he case of respondent I was that he was entitled to the dearness allowance as set out in his application, that under the award there was no ceiling and that by paying Rs. 350/- per month, the company withheld from him the benefit accruing to him under the award. The company, on the other hand, alleged that though the award revised the scheme of dearness allowance as prevailing in the company, it did not affect the existing ceiling of Rs. 350/- and, therefore, there was no question of respondent 1, being deprived of any benefit due to him under the award. Thus, the controversy between the parties before the Labour Court was whether there was a ceiling in the existing scheme, and, if so, whether the Meher Award did away with that ceiling. . . .

Upon such a case being before the Labour Court, that Court had to and was competent to decide the question whether there was a ceiling in the existing scheme, and if so, whether it was deleted by the Tribunal, in other words, whether the demand was for doing away with the existing scheme and substituting it by a fresh scheme which had no ceiling. For that purpose, the Labour Court had necessarily to examine demand No. 9, the reference, the pleadings of the parties, and lastly, the Meher Award, and incidental to such an inquiry it had to examine the question whether there was a ceiling in the scheme existing at the time of that demand and reference....In doing so, the Labour Court had to examine the various

stages the dearness allowance scheme had from time to time gone through.

Admittedly, the Bakhale Award did contain the maximum. That scheme was revised by the circular, dated November, 16. 1953, by which the dearness allowance was linked with the cost of living and the maximum was raised from Rs. 165 to Rs. 300/-. That award was terminated and a fresh demand in respect of dearness allowance was made on August 18, 1956. . . . The demand resulted in the settlement, dated August 30, 1957. Neither the demand nor the settlement contained any reference to the maximum of Rs. 300/- although it did exist in the existing scheme. The case of respondent I was that the said settlement did away with such a maxim and that from 1957 onwards there was no ceiling at all. This case was seriously controverted by the company which produced before the Labour Court the circular, dated March 12, 1959, by which it said that the maximum was raised from Rs. 300/- to Rs. 350/- with effect from April 1, 1959. . . . The Labour Court held that the circular was issued and that its interpretation by respondent 1 that it applied to officers alone was not correct. The circular was issued to "all offices" of the company. It applied to all the employees of the company.... It also stated that it superseded all other previous circulars... [I]t is not possible to say that the decision of the Labour Court suffered from an error apparent on the face of its decision in respect of which a *certiorari* can justifiably be issued under Art. 226....There was no question of any estoppel also against the company against its raising the question of the ceiling in view of the finding by the Labour Court that the question of the ceiling was not the subject-matter of the reference before the Meher Tribunal. Such a conclusion of the Labour Court could not be interfered with by the High Court on any one of the well known grounds on which only such interference is permissible.

The High Court, therefore, was not justified in interfering with the Labour Court's order under its writ jurisdiction. . . .

(Appeal was allowed.)

R.B. BANSILAL ABIRCHAND MILLS CO. LTD. v. THE LABOUR COURT, NAGPUR AND OTHERS

Supreme Court (1972) 1 L.L.J. 231

[As a result of a fire in the mill there was stoppage of work in all the productive departments of the company though other departments continued to work. Meanwhile finding the business unproductive the appellants transferred their mill to another party. The employees applied to the Labour Court for lay-off compensation for the period

the mill did not work. The main question raised by the appellants was whether the Labour Court had the jurisdiction to give lay-off compensation under Section 33 C (2) of the Industrial Disputes Act. By its order the Labour Court rejected this contention. On a writ petition the High Court also held that the Labour Court was competent to adjudicate on the merits of the claim of the workers even where the employer disputed not only the jurisdiction of the Labour Court but also the existence of lay-off. The appellants then preferred an appeal to the Supreme Court. Excerpts from the judgment, delivered by Mitter, J., follow :]

In substance the point urged by the appellants was that if a claim is made on the basis of a lay-off and the employer contends that there was no lay-off but closure, it is not open to a Labour Court to entertain an application under S. 33C (2). The more so it was stated, when the dispute was not between a solitary workman on the one hand and the employer on the other but a whole body of workmen ranged against their employer who was faced with numerous applications before the Labour Court for computation of benefit in terms of money. . . (T)he Labour Court must go into the matter and come to a decision as to whether there was really a closure or a lay-off. If it took the view that there was really a lay-off without any closure of the bussines, it would be acting within its jurisdiction if it awarded compensation in terms of the provisions of Chapter V-A. In our opinion the High Court's conclusion that :

> "In fact the bussiness of this company was continuing. They in fact continued to employ several employees. Their notices say that some portions of the mills would continue to work"

was unexceptionable. The notices which we have referred to can only lead to the above conclusion. The Labour Court's jurisdiction could not be ousted by a mere plea denying the workmen's claim to the computation of the benefit in terms of money; the Labour Court had to go into the question and determine whether on the facts, it had jurisdiction to make the computation. It could not, however, give itself jurisdiction by a wrong decision on the jurisdictional plea.

(Appeal was dismissed.)

PUNJAB CO-OPERATIVE BANK v. BHATIA
A.I.R. 1975 S.C. 1898

[An employee (who was an accountant) in the Punjab Co-operative Bank filed an application under S. 33-C (2) of the Industrial Disputes Act and claimed that under the Shastry Award which was published by

the Government of India on the 26th of March, 1953, he was entitled to some benefits which the bank failed to pay. The claim made by the employee was for the period 1954 to 1961 and the application under S. 33-C (2) was filed on the 10th July, 1968. The bank resisted the claim of the respondent on several grounds. The Labour Court rejected the pleas set up by the bank and allowed the application in part. The bank preferred an appeal by special leave to the Supreme Court. Excerpts from the judgment of the Court, delivered by Untwalia, J., follow :]

The. . . plea on behalf of the appellant (Bank) that the claim of the respondent under Section 33. C(2) of the Act was barred by limitation or was not fit to be entertained on the ground of undue delay or laches on the part of respondent No. 1 has been rightly rejected by the Labour Court following the decisions of this Court in Bombay Gas Co. Ltd. v. Gopal Bhiva (A.I.R. 1964 S.C. 752), and East India Coal Co. Ltd., v. Rameshwar (A.I.R. 1968 S.C. 218).

The next submission made on behalf of the appellant that the claim ought to have been entertained by the Government under Section 33-C (1) of the Act and it was not maintainable under sub-section (2) is stated merely to be rejected. It is completely devoid of substance. In the case of East India Coal Co. (supra) it has been said at page 9, column 2;

"The fact that the words of limitation used in section 20 (2) of the Industrial Disputes (Appellate Tribunal) Act, 1950, are omitted in Section 33-C (2) shows that the scope of Section 33-C (2) is wider than that of Section 33-C (I). Therefore, whereas sub-section (1) is confined to claims arising under an award or settlement or Chap. V-A, claims which can be entertained under sub-sec. (2) are not so confined to those under an award settlement or Chapt. V-A.

The argument put forward on behalf of the appellant against a principle which is firmly established and beyond any doubt or dispute appeared to us an argument in desperation.

(Appeal dismissed).

WORKMEN OF FIRESTONE TYRE & RUBBER CO., v. MANAGEMENT
A.I.R, 1976 S.C. 1775.

[For the facts of the case, see the part on "Lay-off". Excerpts relating to the jurisdiction of Labour Court under S. 33 (C) (2) from the judgment, delivered by Untwalia, J. follow :]

In a reference under S. 10 (1) of the Act it is open to the Tribunal or the Court to award compensation which may not be equal to the full amount of basic wages and dearness allowance. But no such power exists in the Labour Court under S. 33 C (2) of the Act. Only the money due has got to be quantified. If the lay-off could be held to be in accordance with the terms of the contract of service, no compensation at all could be allowed under Sec. 33-C (2) of the Act, while in the reference some compensation could be allowed. Similarly, on the view expressed above that the respondent company had no power to lay-off any workmen, there is no escape from the position that the entire sum payable to the laid-off workmen except the workmen who have settled or compromised, has got to be computed and quantified under S. 33-C (2) of the Act for the period of lay-off....

(Appeals allowed.)

NAMOR ALI v. CENTRAL INLAND WATER TRANSPORT CORPORATION LTD.
A.I.R. 1978 S.C. 275

[The workmen of the company filed an application under S. 33 C (2) of the Industrial Disputes Act, 1947 in the Labour Court for computation of their wages due from the respondent company on the basis of certain settlements arrived at between them and the management. The Labour Court partly allowed their applications. The management challenged the order of the Labour Court in a writ petition. The Gauhati High Court allowed the petition and quashed the order of the Labour Court. The workmen then preferred an appeal by special leave to the Supreme Court. Excerpts from the judgment of the Court, delivered by Untwalia, J., follow :]

On a plain reading of the wordings of the Statute it would be found that where any workman is entitled to receive from employer any money and if any question arises as to the amount of money due, then the question may be decided by the Labour Court. The expression "if any question arises as to the amount of money due" embraces within its ambit any one or more of the following kinds of disputes :

(1) Whether there is any settlement or award as alleged ?

(2) Whether any workman is entitled to receive from the employer any money at all under any settlement or an award etc ?

(3) If so, what will be the rate or quantum of such amount ?

(4) Whether the amount claimed is due or not ?

Broadly speaking, these will be the disputes which will be referable to the question as to the amount of money due. If the right to get the money on the basis of the settlement or the award is not established, no amount of money will be due. If it is established, then it has to be found out, albeit, it may be by mere calculation, as to what is the amount due. For finding it out, it is not necessary that there should be a dispute as to the amount of money due also. The fourth kind of dispute which we have indicated above obviously and literally will be covered by the phrase "amount of money due". A dispute as to all such questions or any of them would attract the provisions of S. 33 C (2) of the Act and make the remedy available to the workman concerned....

[The Court relied on the following decisions in support of this point-*Central Bank of India Ltd.* v. *P.S. Rajagopalan*, (A.I.R. 1964 S.C. 743), *R.B. Bansilal Abirchand Mills Co. Ltd.* v. *Labour Court Nagpur*, (A.I.R. 1972 S.C. 451) and *Sahu Minerals and Properties Ltd.* v. *Presiding Officer, Labour Court*, A.I.R. 1975 S.C. 1745)].

Learned counsel for the respondent company endeavoured to support the judgment of the High Court with reference to the provision of sub-section (1) of S, 33 C of the Act. Counsel submitted that if there is a dispute as to any amount due, it is to be decided by the appropriate Government under the said provision of law and not by the Labour Court under sub-section (2), which is mainly concerned with the computation of the amount. Such an argument is too obviously wrong to be accepted... (A.I.R. 1963 S.C. 487... distinguished).

(Appeal was allowed.)