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NO ADJUDICATION OF DISPUTED ENTITLEMENTS

The Delhi High Court (**HC**), in *Allahabad Bank* case,¹ reaffirmed that proceedings under Section 33C(2) of the Industrial Disputes Act, 1947 (**ID Act**) are limited to the computation of existing rights and cannot be used to adjudicate a disputed entitlement that has not been previously recognized.

Brief Facts

R.S. Saini (Saini) was an employee of Allahabad Bank (**AB**) who retired from service on November 30, 2001. Prior to and following his retirement, he acted as a Defence Assistant for two other employees in departmental enquiry proceedings with the permission of AB's Disciplinary Authority. While AB initially paid Saini's Travelling Allowance/Daily Allowance (**TA/DA**) after his retirement, it eventually ceased these payments without formal communication. Saini filed a claim under Section 33C(2) of the ID Act before the Central Government Industrial Tribunal-cum-Labour Court (**Tribunal**). The Tribunal allowed the claim and directed AB to pay Rs. 16,500. AB challenged this finding *via* the present Writ Petition².

Questions of Law

- Is a claim under Section 33C(2) of the ID Act maintainable in the absence of a pre-existing and adjudicated right to the benefit claimed?
- Does Saini continue to be entitled to TA/DA for attending enquiry proceedings as a Defence Assistant post-superannuation?
- Did the Tribunal exceed its jurisdiction by adjudicating the root of an entitlement under the guise of a computational exercise?

AB's Contentions

- Section 33C(2) is analogous to execution proceedings and requires the pre-existence of a recognized right.
- No employer-employee relationship subsisted post-superannuation; therefore, no obligation to pay TA/DA survived.
- The claim was barred by a Bipartite Settlement dated April 10, 2002, which stipulated that Defence Assistants from the same State as the enquiry are not entitled to TA/DA.

¹ *Allahabad Bank vs. R.S. Saini*, 2026 SCC OnLine Del 3406.

² Paragraph 4 of the Judgement.

- Saini failed to provide cogent evidence, such as vouchers or attendance records, to support his claim.

Saini's Contentions

- His role as a Defence Assistant was formally authorized and never revoked. Thus, his post-retirement service was a lawful extension of a sanctioned appointment.
- As an office bearer of a registered Trade Union, he is protected by the Trade Unions Act, 1926, and should not be treated as an "outsider" despite retirement.
- AB's conduct in paying TA/DA for a period after his retirement constituted an unequivocal acknowledgment of his entitlement.

HC's Decision & Reasoning

The HC, while quashing the Tribunal's order, held:

- Its jurisdiction under Articles 226 and 227 is supervisory and it does not act as an appellate authority over Labour Court findings unless there is patent illegality or jurisdictional error.
- It emphasized the "*limited, execution-like jurisdiction*" of Section 33C(2), noting that it is distinct from the adjudicatory powers found in Section 10 of the ID Act.
- When the very foundation of a claim is in dispute, Saini must first have the entitlement recognized by an appropriate forum before seeking computation under Section 33C(2).
- Saini's claim required primary adjudication on foundational questions such as whether a retired employee can claim TA/DA which fall outside the limited ambit of Section 33C(2).
- AB's temporary continuation of payments after retirement did not constitute a binding recognition of a legal right and could possibly give rise to a disputed question as to whether such payments were made under a mistaken understanding or as a matter of discretion, issues which themselves require adjudication and cannot be resolved under section 33C(2)³.
- The Tribunal erroneously assumed Saini's participation as a Defence Assistant *ipso facto* conferred a right to TA/DA, effectively giving rise to a question by presupposing the very right that was in dispute.

Consequently, the HC quashed the Tribunal's findings and dismissed Saini's claim as not maintainable due to a lack of jurisdiction.

³ This *Counselence Connect* contains information in a nutshell on a recent change in law.

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³ Paragraph 32 of the Judgement.