$~

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

Reserved on: 11.03.2026
Date of decision: 12.05.2026
Uploaded on: 12.05.2026

\+ W.P.(C) 7096/2007

ALLAHABAD BANK .....Petitioner

Through: Mr. Rajat Arora, Mr. Niraj Kumar and Mr. Sourabh, Advocates

versus

R.S.SAINI .....Respondent

Through: Mr. Ankit Bhadaria, Mr Umesh Singh and Ms. Karishma, Adv. with respondent in person.

CORAM:
HON'BLE MS. JUSTICE SHAIL JAIN

JUDGMENT

SHAIL JAIN, J.

1. The present Petition has been filed by the Petitioner under Article 226 of the Constitution of India, challenging the Findings dated 28th March, 2007, passed by the Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-II ("CGIT-II" or "the learned Tribunal") in Labour Court Application No. 17 of 2003 ("LCA No. 17/2003"), whereby the learned Tribunal allowed the claim of the Respondent and directed the Petitioner-Bank to pay a sum of Rs. 16,500/- (Rupees Sixteen Thousand and Five Hundred only) to the Respondent as Travelling Allowance ("TA").

2. The present Petition arises from a claim preferred by the Respondent/Workman under Section 33C(2) of the Industrial Disputes Act, 1947 ("the Act"), seeking payment of TA/DA for attending departmental enquiry proceedings in his capacity as a Defence Assistant ("DA"). The dispute centres on whether the Respondent remained entitled to such payments after the cessation of his employment with the Petitioner/Bank.

3. The Petitioner Bank, aggrieved by the Findings dated 28th March, 2007, passed by the learned Tribunal allowing the claim of the Respondent, has filed the present Writ Petition seeking quashing of the impugned Findings.

FACTUAL BACKGROUND

4. The brief factual background leading to the filing of the present Petition is set out hereunder:

A. The Petitioner is a bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, with branches across India.

B. The Respondent/Workman was an employee of the Petitioner/Bank and was subjected to disciplinary proceedings, pursuant to which two punishments were imposed upon him *vide* Orders dated 29th November, 2001.

C. It is stated that the Petitioner/Bank had also issued Charge Sheets to two other employees, namely Sh. A.S. Arora (Computer Operator) and Sh. B.S. Verma (Head Cashier). The Respondent acted as a Defence Assistant for the said employees during the course of departmental enquiry proceedings.

D. At the time of initiation of the said enquiry proceedings, the Respondent was in the employment of the Petitioner/Bank. He had been attending the enquiry proceedings as a Defence Assistant in the matter of the departmental enquiry initiated against Sh. A.S. Arora (Computer Operator) and Sh. B.S. Verma (Head Cashier), with the due permission of the Disciplinary Authority in each case. However, during the pendency of these enquiry proceedings, the Respondent retired from service on 30th November, 2001.

E. The Respondent continued to be paid TA/DA/conveyance for some time following his retirement, and thereafter, without any formal communication, the Petitioner ceased to make such payments.

F. Aggrieved by the non-payment of TA/DA following his superannuation, the Respondent filed a claim under Section 33C(2) of the Act in LCA No. 17/2003 before the CGIT-II, Delhi, claiming amounts towards TA/DA/conveyance for attending the enquiry proceedings as a Defence Assistant. The total amount claimed before the learned Labour Court was Rs. 14,280/- (Rupees Fourteen Thousand Two Hundred and Eighty only).

G. The Petitioner/Management contested the said claim by filing a Written Statement, contending, inter alia:

a. that the Respondent was not entitled to TA/DA in view of the Memorandum of Settlement

dated 10th April, 2002, which provided that a Defence Representative hailing from the same State as the place of enquiry shall not be entitled to TA/DA; and

b. that the proceedings under Section 33C(2) of the Act were not maintainable, as they are in the nature of execution proceedings requiring the pre-existence of a recognised right.

H. The Petitioner further contended that since the Respondent was no longer in employment, no employer-employee relationship subsisted, and consequently, no obligation to pay TA/DA/conveyance survived after superannuation.

I. The parties led evidence before the learned Tribunal and filed Written Submissions in support of their respective cases. Upon consideration of the material on record, the learned Tribunal *vide* its Findings dated 28th March, 2007 allowed the claim of the Respondent/Workman and directed the Petitioner/Bank to pay a sum of Rs. 16,500/- (Rupees Sixteen Thousand Five Hundred only).

J. Aggrieved by the said Findings, the Petitioner has filed the present Writ Petition seeking the following reliefs:

> *"a. Issue a writ of certiorari or any other appropriate writ, order or direction quashing the findings dated 28th March, 2007, passed by the learned Presiding Officer, CGIT-II, Delhi in LCA No. 17/2003;*

b. Call for the records of the case; and
c. Pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

5. In addition to the foregoing, the following grounds have been urged by the Petitioner in support of the reliefs claimed:

I. That the findings recorded by the learned Tribunal are contrary to the Settlement dated 10th April, 2002, which specifically provides that TA/DA is not payable where the Defence Assistant is from the same State as the place of the enquiry proceedings. In this regard, the finding of the learned Tribunal that Clause 19.12(d) of the Bipartite Settlement is not applicable to the Respondent is also erroneous, inasmuch as the said clause applies squarely to the facts of the present case, the Respondent being based in Delhi and the proceedings having been conducted in Delhi. Further, the Settlement reached at the industry level is binding upon both the Respondent and the Union, and the Respondent cannot be permitted to resile from or circumvent its terms.

II. That under the provisions of the Bipartite Settlement, a delinquent employee is entitled to be represented by a Defence Assistant who is an employee of the Bank. Since the Respondent had ceased to be an employee of the Petitioner-Bank upon his superannuation, he was not entitled to prefer the claim as sought by him in LCA No. 17/2003. In any event, the Respondent had already been

paid all amounts to which he was eligible, and no further payment is due or owing to him.

III. That the claim of the Respondent was wholly unsupported by evidence. The Respondent failed to place on record any proof, whether in the form of TA/DA bills, vouchers, or attendance records, to demonstrate that he had in fact attended the enquiry proceedings on the specific dates alleged by him, or that he had actually incurred the expenditure claimed. The grant of relief by the learned Tribunal is, therefore, founded on conjecture and surmise, and the impugned Findings cannot be sustained in the absence of any cogent material on record.

IV. That the proceedings under Section 33C(2) of the Industrial Disputes Act, 1947, are in the nature of execution proceedings and are premised upon the existence of a pre-existing, adjudicated right. Since the Respondent's entitlement to TA/DA post-superannuation was itself disputed and had never been formally recognised or adjudicated upon by the Petitioner-Bank, the claim was not maintainable under the said provision.

V. That the Respondent, in his claim statement filed before the learned Tribunal, had claimed a sum of Rs. 14,280/- (Rupees Fourteen Thousand Two Hundred and Eighty only), whereas the learned Tribunal proceeded to award a sum of Rs. 16,500/- (Rupees Sixteen Thousand and Five Hundred only), an amount in excess of the relief

prayed for. Such an award is contrary to law and liable to be set aside.

VI. That the impugned Findings, if allowed to stand, would gravely prejudice the Petitioner-Bank, inasmuch as other similarly situated retired employees would be emboldened to approach the Bank with analogous claims, thereby creating significant difficulties in the administration of the Bank.

6. In turn, the stand of the Respondent/Workman before this Court is as follows:

I. That the Respondent was duly authorised by the Disciplinary Authority to act as Defence Assistant on behalf of Sh. A.S. Arora and Sh. B.S. Verma at the commencement of the enquiry proceedings, and such authorisation was neither revoked nor withdrawn at any point during the pendency thereof. His continuation in that role after superannuation was, therefore, a lawful extension of a formally sanctioned appointment and not an irregular or unauthorised act.

II. That the Respondent, being an office bearer of the registered Trade Union, is expressly protected by the Explanation to Section 22(2) of the Trade Unions Act, 1926, which provides that a retired employee holding union office shall not be construed as an "outsider." By virtue of this statutory protection, the Respondent retained the legal

capacity to continue representing the charge-sheeted employees as their Defence Assistant notwithstanding his retirement.

III. That the Petitioner-Bank's own conduct of continuing to pay TA/DA to the Respondent for a period after his retirement amounts to an unequivocal acknowledgement of his entitlement. The subsequent cessation of such payments, effected verbally, without any formal order, and without affording the Respondent any opportunity to be heard, was arbitrary and unsustainable in law.

IV. That the learned Tribunal, upon due consideration of the evidence on record and the applicable provisions of the Bipartite Settlement, rightly concluded that the Respondent was entitled to the amounts claimed. The impugned Findings are well-reasoned and call for no interference under Article 226 of the Constitution of India.

SUBMISSIONS OF THE PARTIES

7. In view of the aforesaid facts and circumstances, the following contentions were urged on behalf of the Petitioner/Management to strengthen their claim.

a. Learned Counsel appearing on behalf of the Petitioner, in the first instance, stated that the Respondent/Workman superannuated on 30th November, 2001 and, therefore, ceased to be an employee of the Petitioner-Bank, and that, having continued as Defence Representative after

superannuation, the claim for TA/DA for that period is unsustainable.

b. Further, the learned Counsel contended that Clause 19.12(d) of the relevant Bipartite Settlement specifically provides that TA/DA is not payable where the Defence Representative is from the same State as the place of the enquiry proceedings, and the Respondent, being based in Delhi and attending enquiry proceedings in Delhi, fell squarely within this exclusion.

c. The learned Counsel also contended that the Bipartite Settlement as well as the applicable Circular dated 10th April, 2002, apply only to persons who are in active employment. Since no employer-employee relationship subsisted post-superannuation, the Respondent was not entitled to any amounts from the Bank.

d. Moreover, the learned Counsel stated that the Respondent did not place on record any proof, including attendance records, TA/DA bills, or vouchers to demonstrate that he had actually attended the enquiry proceedings on the specific dates alleged by him and that the relief granted by the learned Tribunal was based on conjecture, unsupported by evidence.

e. Also, the Respondent claimed Rs. 14,280/- before the learned Labour Court, yet the Tribunal directed payment of Rs. 16,500/-. This excess award, beyond the claim itself, has been contended as contrary to the law.

f. Learned Counsel stated that the proceedings under Section 33C(2) of the Act are in the nature of execution proceedings and are maintainable only where a pre-existing, adjudicated right is in place and that since the Respondent's entitlement to TA/DA post-retirement was itself in dispute and had not been adjudicated upon previously, the claim under Section 33C(2) was not maintainable.

g. Reliance was placed by the learned Counsel on the decisions of the Hon'ble Supreme Court in ***Municipal Corporation of Delhi v. Ganesh Razak & Anr., (1995) 1 SCC 235*** and ***State of Uttar Pradesh & Anr. v. Brijpal Singh, (2005) 8 SCC 58***, in support of the foregoing contentions.

h. Lastly, learned Counsel contended that the Industry-level Settlement binds both the Respondent and his Union, and the Respondent cannot seek to circumvent its terms.

8. Upholding their contestation, the Respondent-Workman advanced the following submissions.

a. Learned Counsel appearing on behalf of the Respondent submitted that the Respondent was duly authorised to act as a Defence Assistant by the Disciplinary Authority and continued to do so in accordance with the provisions of Para 19.12 of the Bipartite Settlement, which permits a charge-sheeted employee to be represented by a representative of a registered Trade Union of bank employees.

b. Further, it was submitted that the Respondent was an office bearer of the Union at the relevant time. Under the Explanation to Section 22(2) of the Trade Unions Act, 1926, a retired employee holding office in a registered Trade Union shall not be construed as an "outsider" for the purposes of such office. Accordingly, it was stressed by the learned Counsel that the Respondent retained the legal capacity to act as a Defence Assistant on behalf of the charge-sheeted employees notwithstanding his retirement.

c. Moreover, it was contended that the Respondent was discharging his duties as Defence Assistant when he was in employment; his retirement during the pendency of the enquiry did not extinguish the entitlement to TA/DA that had already accrued, nor did it put an end to the authority granted to him by the Disciplinary Authority to continue as Defence Assistant.

d. It was also submitted on behalf of the Respondent that the denial of TA/DA/conveyance post-retirement was arbitrary, illegal, and unsustainable in law, and that, in no way, was it possible for the Respondent to attend the enquiry proceedings repeatedly using his own resources. The Bank, having permitted him to continue as Defence Assistant, was obligated to reimburse his actual expenditure.

e. Lastly, the learned Counsel reiterated that the learned Tribunal rightly allowed the claim, and the impugned Findings call for no interference in the exercise of the

extraordinary jurisdiction under Article 226 of the Constitution of India.

ISSUES INVOLVED

9. In light of the facts and grounds noted hereinabove, the questions that arise for consideration before this Court are set out hereunder:

I. Whether the claim preferred by the Respondent under Section 33C(2) of the Industrial Disputes Act, 1947, was maintainable in the absence of a pre-existing and adjudicated right to TA/DA post-superannuation?

II. Whether the Respondent, having superannuated from service, continued to be entitled to TA/DA/conveyance for attending departmental enquiry proceedings as a Defence Assistant?

III. Whether the findings dated 28th March, 2007, passed by the learned Presiding Officer, CGIT-II, Delhi in LCA No. 17/2003 suffer from any illegality, perversity or material irregularity warranting interference under Articles 226 and 227 of the Constitution of India.

ANALYSIS AND REASONING

10. This Court has heard the learned Counsels for the respective parties and perused the record.

11. Before adverting to the issues framed in the present Petition, it is apposite to observe that the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India, while examining an Award passed by the Labour Court, is supervisory in nature and circumscribed in scope. It is well

settled that the High Court does not act as an appellate authority over the findings returned by the Labour Court. Interference is warranted only where the Award suffers from patent illegality, perversity, jurisdictional error, or where material evidence has been ignored.

12. Therefore, the High Court, in writ proceedings, does not re-examine or re-appreciate the evidence recorded by the Tribunal below, nor does it substitute its own view for that of the adjudicatory body. The award of the Labour Court can be set aside only if there is an error apparent on the face of the record.

13. Bearing these well-settled principles firmly in mind, this Court had to examine the issues arising for determination in the present Petition.

14. The first and foundational question that must be addressed before examining the merits of the Respondent's claim is whether the Application filed before the learned Tribunal under Section 33C(2) of the Industrial Disputes Act, 1947, was at all maintainable.

15. The Petitioner has strenuously urged that Section 33C(2) is analogous to execution proceedings and can be invoked only to compute or recover a benefit whose existence is already settled and undisputed, and that since the Respondent's entitlement to TA/DA post-superannuation was itself in dispute, the application was not maintainable at the threshold.

16. The jurisdictional question arising under Section 33C(2) of the Industrial Disputes Act, 1947, assumes central importance in the present case, for it goes to the very root of the competence of the learned Tribunal to entertain and adjudicate the Respondent’s claim. The provision, though couched in broad terms, has been consistently interpreted by the Courts as conferring a limited, execution-like jurisdiction, distinct from the original

adjudicatory powers exercised under Sections 10 or 2A of the Act.

17. It is pertinent to mention that the jurisprudence governing Section 33C(2) draws a clear distinction between-

a. The computation of a benefit flowing from an existing right, and

b. The adjudication of the right itself.

The relevant provision reads as follows.

> *"**33C. Recovery of money due from an employer**.—(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government; 1 [within a period not exceeding three months:]*
> *[Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.]"*

18. To appreciate its scope, it is instructive to note that Section 33C(2) of the Industrial Disputes Act, 1947, enables a workman to approach the Labour Court for computation of "any money or any benefit which is capable of being computed in terms of money." However, this seemingly wide formulation has been judicially circumscribed to ensure that the Labour Court does not transgress into the domain of adjudication of industrial disputes.

19. Therefore, the power conferred by Section 33C(2) is one of computation and recovery and not of adjudication. Where the very

foundation of the claim is in dispute, the workman must first have his entitlement recognised by the appropriate forum, and only thereafter may he invoke Section 33C(2) for the purpose of computing and recovering the benefit so recognised.

20. In furtherance, the legal position on the scope and ambit of Section 33C(2) is no longer res integra, having been conclusively settled by a consistent line of authority of the Hon'ble Supreme Court.

21. Nonetheless, before adverting to other leading precedents on the issue, this Court finds it apposite to refer to the judgment of the Hon'ble Supreme Court in ***In Central Inland Water Transport Corporation Ltd. v. The Workmen & Anr., 1975 SCC (4) 348***. In the said decision, the Court underscored the fundamental distinction between adjudication and execution, observing that where a claimant's right to relief requires investigation, such determination must be undertaken in appropriate adjudicatory proceedings; it is only after the liability stands adjudicated that the quantification or enforcement thereof can be carried out in execution. This distinction was succinctly brought out in the said decision as under:

> *"In a suit, a claim for relief made by the plaintiff against defendant involves an investigation directed to the determination of (i) the plaintiff's right to relief; (ii) the corresponding liability of the defendant, including, whether the defendant is, at all, liable or not; and (iii) the extent of the defendant's liability, if any. The working out of such liability with a view to give relief is generally regarded as the function of an execution proceeding. Determination No. (iii) referred to above, that is to say, the extent of the defendant's liability may sometimes be left over for determination in execution proceedings. But that is not the case with the determinations under (i) and (ii). They are normally regarded as the functions of a suit and not an*

execution proceeding. Since a proceeding under section 33C(2) is in the nature of an execution proceeding it should follow that an investigation of the nature of determinations (i) and (ii) above is, normally, outside its scope, it is true that in a proceeding under section 33 (C)(2), as in an execution proceeding, it may be necessary to determine the identity of the person by whom or against whom the claim is made if there is a challenge on that scope. But that is merely 'incidental'. To call determinations (i) and (ii) 'incidental' to an execution proceeding would be a perversion, because execution proceedings in which the extent of liability is worked out are just consequential upon the determinations (i) and (ii) and represent the last stage in a process leading to final relief. Therefore, when a claim is made before the Labour Court under section 33(C)(2) that court must clearly understand the limitations under which it is to function. It cannot arrogate to itself the functions - say of an industrial Tribunal which alone is entitled to make adjudications in the nature of determinations (i) and (ii) referred to above, or proceeded to compute the benefit by during the former as 'incidental' to its main business of computation. In such cases, determinations (i) and (ii) are not 'incidental' to the computation. The computation itself is consequential upon and subsidiary to determinations (i) and (ii) as the last stage in the process which commenced with a reference to the industrial Tribunal. It was, therefore, held in State Bank of Bikaner and Jaipur v. R.L. Khandelwal, (1968) L.L.J. 589, that a workman cannot put forward a claim in an application under section 33C(2) in respect of a matter which is not based on an existing right and which can be appropriately the subject-matter of an industrial dispute which requires a reference under section 10 of the Act."

22. Now, the *locus classicus* on the point is the judgment in ***Municipal Corporation of Delhi v. Ganesh Razak & Anr., (1995) 1 SCC 235***, on which the learned Counsel for the Petitioner has placed reliance. The Hon'ble Supreme Court, in this case, after referring to a catena of decisions

on the relevant subject matter, held the following:

> *"1.2. ……. The High Court has referred to some of these decisions but missed the true import thereof. The ratio of these decisions clearly indicates that where the very basis of the claim or the entitlement of the workmen to a certain benefit is disputed, there being no earlier adjudication or recognition thereof by the employer, the dispute relating to entitlement is not incidental to the benefit claimed and is, therefore, clearly outside the scope of a proceeding under Section 33C(2) of the Act. The Labour Court has no jurisdiction to first decide the workmen's entitlement and then proceed to compute the benefit so adjudicated on that basis in exercise of its power under Section 33C(2) of the Act. It is only when the entitlement has been earlier adjudicated or recognised by the employer and thereafter for the purpose of implementation or enforcement thereof some ambiguity requires interpretation that the interpretation is treated as incidental to the Labour Court's powèr under Section 33C(2) like that of the Executing Court's power to interpret the decree for the purpose of its execution."*

23. This position was further reiterated by the Hon'ble Supreme Court in ***State of Uttar Pradesh & Anr. v. Brijpal Singh, (2005) 8 SCC 58***, wherein the Hon'ble Apex Court, after referring to the case of ***Ganesh Razak (supra),*** observed that the recourse to Section 33C(2) is permissible only where the workman's entitlement has been previously adjudicated or otherwise recognised. The relevant paragraphs of the judgment are extracted hereunder.

> *"It is well settled that the workman can proceed under Section 33C(2) only after the Tribunal has adjudicated on a complaint under Section 33A or on a reference under Section 10 that the order of discharge or dismissal was not justified and has set aside that order and reinstated the workman. This Court in the case of* ***Punjab Beverages Pvt.***

Ltd. Vs. Suresh Chand, (1978) 2 SCC 144 *held that a proceeding under Section 33C(2) is a proceeding in the nature of execution proceeding in which the Labour Court calculates the amount of money due to a workman from the employer, or, if the workman is entitled to any benefit which is capable of being computed in terms of money, proceeds to compute the benefit in terms of money. Proceeding further, this Court held that the right to the money which is sought to be calculated or to the benefit which is sought to be computed 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 the industrial workman, and his employer. This Court further held as follows:*

> *"It is not competent to the Labour Court exercising jurisdiction under Section 33C(2) to arrogate to itself the functions of an industrial tribunal and entertain a claim which is not based on an existing right but which may appropriately be made the subject matter of an industrial dispute in a reference under Section 10 of the Act."”*

24. Moreover, in the seminal decision of ***Central Bank of India Ltd. v. P.S. Rajagopalan, AIR 1964 SC 743***, the Hon’ble Supreme Court distinguished between Sections 36A and 33C(2), observing that while Section 36A pertains to the interpretation of an award upon a reference by the appropriate Government, Section 33C(2) is concerned solely with the implementation or execution of individual rights. It was further held that the Labour Court, acting under Section 33C(2), exercises powers akin to an executing court and may interpret an award or settlement only to the extent necessary for its enforcement. The relevant paragraph of the judgment is extracted hereunder.

> *"Besides, there can be no doubt that 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 would also be competent to interpret the award or settlement on which a workmen bases his claim under s.33C(2). Therefore, we feel no difficulty in holding that for the purpose of making the necessary determination under S.33C(2), it would, in appropriate cases, be open to the Labour Court to interpret the award or settlement on which the workmen's right rests."*

25. The aforesaid position has also been clarified by the Hon'ble Apex Court in a recent decision, namely, ***M/s Bombay Chemical Industries vs Deputy Labour Commissioner & Anr. [bearing Civil Appeal No. 813 of 2022; decided February, 04 2022]***. The relevant part of the Judgment is reproduced hereunder.

> *"7. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, when there was no prior adjudication on the issue whether respondent No. 2 herein was in employment as a salesman as claimed by respondent No.2 herein and there was a serious dispute raised that respondent No.2 was never in employment as a salesman and the documents relied upon by respondent No.2 were seriously disputed by the appellant and it was the case on behalf of the appellant that those documents are forged and/or false, thereafter the Labour Court ought not to have proceeded further with the application under Section 33(C)(2) of the Industrial Disputes Act. <u>The Labour Court ought to have relegated respondent No. 2 to initiate appropriate proceedings by way of reference and get his right crystalized and/or adjudicate upon. Therefore, the order passed by the Labour Court was</u>*

beyond the jurisdiction conferred under Section 33(C)(2) of the Industrial Disputes Act. The High Court has not appreciated the aforesaid facts and has confirmed the same without adverting to the scope and ambit of the jurisdiction of the Labour Court under Section 33(C)(2) of the Industrial Disputes Act."

[emphasis supplied]

26. Turning to the facts of the present case, it is apparent that the Petitioner-Bank specifically disputed the Respondent's entitlement to TA/DA post-retirement on two distinct grounds: first, that the cessation of the employer-employee relationship upon superannuation extinguished all obligations to pay; and second, that the Settlement dated 10th April, 2002 expressly precluded a Defence Representative from the same State from claiming TA/DA. These were not peripheral questions going only to the quantum of the claim, but were primary questions going to the root of the Respondent's entitlement itself.

27. Tested on the aforesaid touchstone, it becomes evident that the Respondent's claim does not fall within the narrow confines of Section 33C(2). The entitlement to TA/DA post-superannuation is not founded upon any prior adjudication, award, or unequivocal provision in the service rules or settlement recognising such a right.

28. As mentioned above, the Petitioner-Bank had specifically contested such entitlement, asserting that no obligation survived upon cessation of employment and that the Bipartite Settlement militated against such a claim.

29. The Respondent's claim, therefore, necessarily required the Tribunal to undertake a primary adjudication on several foundational questions, including:

I. Whether a retired employee can claim TA/DA for acting as a Defence Assistant;

II. Whether such entitlement survives the cessation of the employer–employee relationship;

III. Whether the Bipartite Settlement permits or prohibits such a claim; and

IV. Whether the Respondent's continued participation post-retirement creates any enforceable obligation.

30. Each of these questions is not merely incidental or interpretative, but goes to the very genesis of the right claimed. The determination of these issues would require a full-fledged adjudicatory exercise, involving appreciation of evidence, interpretation of settlements, and application of legal principles, functions which lie squarely within the domain of an industrial adjudication under Section 10, and not within the limited ambit of Section 33C(2).

31. The learned Tribunal, however, appears to have proceeded on the assumption that the Respondent's participation as a Defence Assistant *ipso facto* conferred upon him a right to claim TA/DA, and that the only task before it was to quantify such entitlement. This assumption effectively begs the question, for it presupposes the very right which was in dispute. By doing so, the Tribunal inverted the statutory scheme and converted what ought to have been a threshold jurisdictional inquiry into a mere computational exercise.

32. Another dimension which underscores the jurisdictional infirmity is the absence of any prior determination, either by way of an award, settlement, or administrative decision, recognising the Respondent's

entitlement. The continuation of TA/DA payments for a limited period after retirement, as relied upon by the Respondent, cannot be construed as a binding recognition of a legal right. At best, it may 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 summarily resolved under Section 33C(2).

33. Thus, the present case exemplifies a situation where the **Labour Court has effectively assumed jurisdiction to adjudicate a disputed industrial claim under the guise of computation**, thereby transgressing the statutory limits of Section 33C(2). Such an approach not only runs contrary to settled law but also undermines the carefully structured scheme of the Industrial Disputes Act, which delineates distinct forums and procedures for adjudication and execution.

34. In the absence of any prior adjudication, award, settlement, or statutory provision recognising the claimed right, the Respondent's claim was not one of computation simpliciter, but one requiring foundational adjudication.

35. In view of the above, this Court is of the considered opinion that the application filed by the Respondent before the learned Tribunal was **not maintainable under Section 33C(2)** of the Industrial Disputes Act, 1947, and the learned Tribunal acted in excess of jurisdiction in entertaining and allowing the same.

36. In light of the above conclusion on maintainability, this Court does not find it necessary to delve into the other issues raised by the parties, including the effect of superannuation, applicability of the Bipartite Settlement, or the quantification of the claim, as the Petition can be disposed

of on this short ground alone.

37. Therefore, the Findings dated 28th March, 2007, passed by the learned Presiding Officer, CGIT-II, Delhi in LCA No. 17/2003 are hereby **quashed and set aside** on the ground of lack of jurisdiction.

38. The claim preferred by the Respondent under Section 33C(2) of the Industrial Disputes Act, 1947, stands **dismissed as not maintainable**.

39. Accordingly, in view of the foregoing discussion, the present Writ Petition is **allowed**. There shall be no order as to costs. The pending Application(s), if any, stand disposed of.

SHAIL JAIN
JUDGE

MAY 12, 2026
PT/MM