

## **Tara And Ors. vs Director, Social Welfare And Ors. on 18 March, 1997**

**Equivalent citations: AIR1999SC1508, (1998)8SCC671, 1998 LAB LR 882, AIR 1999 SUPREME COURT 1508, 1998 AIR SCW 3880, 1999 LAB. I. C. 228, 1998 (8) SCC 671, (1998) 2 LABLJ 632, (1999) 2 SCT 300, 1999 SCC (L&S) 249**

**Bench: J.S. Verma, B.N. Kirpal**

### **ORDER**

1. These appeals by special leave are against an award of the Labour Court rejecting the applications made by the appellants under Section 33-C(2) of the Industrial Disputes Act, 1947 for payment of wages at the rate claimed by the appellants. The Labour Court, placing reliance on the decision of this Court in *Municipal Corporation of Delhi v. Ganesh Razak*, has held that the applications are not maintainable under Section 33-C(2) of the Act. Hence, these appeals by special leave.

2. There is no infirmity in the conclusion reached by the Labour Court on the basis of the decision of this Court in *Ganesh Razak*, that the claim made by the appellants is not maintainable under Section 33-C(2) of the Act. This is obvious from the fact that the status and nature of employment of the appellants is itself disputed and unless there is a prior adjudication on merits of the status which is the foundation for making the claim for wages at the specified rates, the question of moving an application under Section 33-C(2) for computation of the wages does not arise. We find that the Labour Court has recorded some findings which may be relevant for the disputed status of the appellants as anganwadi workers/helpers even though it has rightly reached the conclusion that the applications do not lie under Section 33-C(2) of the Act. It is clear that the question of maintainability of the applications under Section 33-C(2) was required to be determined at the threshold and the question of examining the appellants claim on merits relating to their status could have been gone into thereafter if the applications were held to be maintainable under Section 33-C(2). In view of the conclusion rightly reached by the Labour Court that the applications were not maintainable under Section 33-C(2), its other findings relating to the status and nature of employment of the anganwadi workers/helpers were wholly uncalled for. All such findings are, therefore, not to be construed as deciding any point relating to the status of the appellants.

3. We find no merit in these appeals for the above reason. The appeals are, therefore, dismissed.