

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5427 OF 2015

The Chief Officer,
Municipal Council, Dharangaon,
Dist.Jalgaon

PETITIONER

VERSUS

Suresh Ramdas Barela,
Age-45 years, Occu-Service,
R/o Mahatma Gandhi Garden,
Dharangaon, Dist.Jalgaon

RESPONDENT

Mr.G.V.Wani, Advocate for the petitioner.
Mr.S.P.Tiware, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 30/09/2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner/Municipal Council is aggrieved by the judgment and order dated 19/12/2014 delivered by the Labour Court in Appl. (IDA) NO.18/2013, by which the claim of the respondent u/s 33 (C) (2) of the I.D.Act, 1947 has been allowed.

3. The petitioner submits that the respondent had put forth his claim belatedly and the same is, therefore, rendered untenable. He points out that the judgment and award of the Labour Court dated 22/06/1999 in Ref.(IDA) No.17/1995 was partly answered in the affirmative. Oral termination of the respondent dated 21/06/1988 was quashed and set aside and he was granted reinstatement with continuity of service. Back wages were denied. The said judgment has attained finality.

4. Mr.Wani submits that the respondent preferred Complaint (ULP) No.2316/1999 before the Industrial Court which was allowed by the judgment dated 30/10/2002 and the petitioner was directed to pay arrears of wages from July 1999 till reinstatement of the respondent. The said judgment has also attained finality.

5. Mr.Wani strenuously submits that the respondent has filed application (IDA) No.18/2013 on 05/12/2013 which is beyond 11 years from the date of judgment of the Industrial Court, which is 30/10/2002. Grievance, therefore, is that the said proceedings are affected by delay and laches and hence the interest of 12% granted by the Labour Court in the impugned order is unsustainable.

6. Mr.Wani, therefore, submits that the Labour Court should have rejected the proceedings purely on the ground of delay, much less grant the amount as claimed by the respondent and impose interest upon the petitioner, which is a public body.

7. Mr.Tiwari, learned Advocate for the sole respondent has supported the impugned order. He contends that after the Industrial Court specifically directed the petitioner to pay the arrears of wages, the petitioner should have implemented the order once it attained finality. When the said judgment of the Labour Court has not been set aside by any superior Court, the petitioner was under an obligation to make the payment of the legal dues.

8. He further submits that the petitioner has attempted to tire out the respondent by compelling him to approach the Court at every stage. When the award dated 22/06/1999 was delivered by the Labour Court, the respondent was compelled to lodge Complaint (ULP) No.2316/1999 for the recovery of unpaid wages. He further submits that the petitioner deliberately did not make the payment so as to frustrate the respondent. The respondent was, therefore, required to run from pillar to post for seeking recovery of the amount. He further submits that since no limitation has been prescribed u/s

33(C)(2), the contention of the petitioner is unsustainable.

9. I have considered the submissions of the learned Advocates, as recorded above. Section 33(C)(1) and (2) of the I.D. Act, 1947 read as under :-

“33(C). Recovery of money due from an employer.-

(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of ⁴ Chapter VA or Chapter VB], the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue: Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer: Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(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:] ² 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.]”

10. It is thus apparent that the limitation of one year is prescribed u/s 33(C)(1). However, the Legislature has not introduced limitation u/s 33(C)(2). When such limitation is not prescribed, it needs to be construed that the Legislature did not intend to impose any limitation to the extent of recovery of the money from an employer u/s 33(C)(2).

11. With the assistance of the learned Advocates, I have gone through the impugned judgment in order to verify as to whether the amount as directed by the Labour Court has been properly considered.

12. I do not find that there is any error in the conclusions drawn by the Labour Court. I do not find that the impugned judgment could be termed as perverse or erroneous.

13. I am not inclined to interfere even in the direction of granting interest by the Labour court since the said amount was due in 1999.

14. In the light of the above, no interference is called for. This petition, being devoid of merit, is therefore dismissed. Rule is discharged.

15. The amount deposited by the petitioner in this Court shall be withdrawn by the respondent.

16. Needless to state, the petitioner shall calculate the interest payable in accordance with the impugned order and make the said payment to the respondent within a period of 4 (four) weeks from today.

(RAVINDRA V. GHUGE, J.)