

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6687 OF 2015

Bansi S/o Trimbakrao Hazare,
Age-75 years, Occu-Retired Gatsachiv,
R/o Rolasgaon, Post - Khadki Ghat,
Tq.Georai, Dist.Beed.

PETITIONER

VERSUS

The Chief Executive Officer,
Beed Zilla Dekhreh Sahakari Sanstha Maryadit,
Beed, Stadium Complex,
Jalna Road, Beed, Tq. and Dist. Beed

RESPONDENT

Mr.M.S.Indaniwith Mr.U.M.Indani, Advocate for the petitioner.
Mr.D.N.Suryawanshi, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/12/2015

ORAL JUDGMENT :

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

2. The petitioner is aggrieved by the order dated 18/02/2013 delivered by the Labour Court, by which Application (IDA) No.53/2010 filed u/s 33(C)(2) seeking recovery of only Rs.26,000/-, has been rejected.

3. The petitioner is 75 years old today. Reference (IT) Nos.

167/1975, 427/1975, 428/1975, 496/1975 and 83/1976 involving the District Supervision Co-operative Society Limited (Zilla Dekhreh Sahakari Sanstha Maryadit) from Osmanabad, Nanded, Parbhani, Aurangabad and Beed were referred by the Appropriate Government for adjudication to the Industrial Tribunal, Maharashtra at Pune. All the said reference cases were partly allowed and certain directions were issued. It was made clear that this award would be applicable to the said Societies of the said districts.

4. Mr.Indani, learned Advocate submits that the petitioner had filed the above stated application u/s 33(C)(2) of the I.D.Act, seeking recovery of Rs.26,000/- with 18% interest from Beed Zilla Dekhreh Sahakari Sanstha Maryadit. The Labour Court framed the following issue :-

“Whether this Court has jurisdiction to entertain and try the present application ?”

5. Both the sides did not desire to lead evidence. The respondent / Management was absent.

6. Mr.Indani makes a grievance that in the light of the above, without assigning proper reasons, the Labour Court concluded that the petitioner should not file an application u/s 33(C)(2) and should

file an application u/s 33(C)(1) before the appropriate Government. The Labour Court lost sight of the fact that Section 33(C)(1) is an option to be exercised by the employee within 1 year from the date from which the money became due. Section 33(C)(2) was an option available to a workman to seek recovery of money due from an employer by making an application to the Labour Court. There is no limitation prescribed u/s 33(C)(2).

7. Mr.Suryawanshi, learned Advocate for the sole respondent strenuously supports the impugned order. He, however, fairly submits that no such objection was raised by the respondent before the Labour Court touching the issue that the petitioner should be prevented from filing an application u/s 33(C)(2) and should prefer an application u/s 33(C)(1).

8. I have considered the submissions of the learned Advocates for the respective sides.

9. Section 33(C) of the I.D.Act, reads as under :-

“33C. 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

[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 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 [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.]

(3) For the purposes of computing the money value of a benefit, the Labour Court may, if it so thinks fit, appoint a Commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

(4) The decision of the Labour Court shall be forwarded by it to the appropriate Government and any amount found due by the Labour Court may be recovered in the manner provided for in subsection (1).

(5) Where workmen employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workmen."

10. The reasons assigned by the Labour Court in passing the impugned order are set out in paragraph Nos.6 and 7. I record my disappointment on the conclusions arrived at by the Labour Court in

paragraph Nos.6 and 7 since there are no reasons, much less any logic or interpretation of Section 33(C)(1) and (2) set out in the said paragraphs. I find that the impugned judgment is perverse and erroneous.

11. In the light of the above, the impugned order dated 18/02/2013 is quashed and set aside. Application (IDA) No.53/2010 is restored to the file of the Labour Court, Aurangabad. The litigating sides shall appear before the Labour Court on 23/12/2015 and formal notices need not be issued by the Labour Court.

12. Considering the age of the petitioner, the Labour Court shall endeavour to decide the said proceedings as expeditiously as possible and preferably on or before 31/07/2016. All contentions raised by the litigating sides are kept open and the said proceedings shall be decided on its own merits in accordance with the provisions of Law.

13. Considering the request of the respondent that the impugned order dated 18/02/2013 is challenged by the petitioner on 15/04/2015 belatedly, the Labour Court shall note that in the event the petitioner succeeds in the proceedings before it, no interest shall be payable by the respondent for a period of 1 year only in the light of

the delay in filing this petition.

14. Petition is, therefore, allowed and Rule is made absolute in the above terms.

15. No costs.

(RAVINDRA V. GHUGE, J.)