

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.6840 OF 2015
IN
WRIT PETITION NO.3060 OF 2005

SURYAKANT SHANKARRAO WAGHMARE	APPLICANT
VERSUS	
MAHILA AARTHIK VIKAS MAHAMANDAL MARYADIT	RESPONDENT

Mr.K.M.Nagarkar, Advocate for the applicant.
Mr.S.K.Chavan, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 17/07/2015

PER COURT :

1. The applicant is before this Court praying for salary from October 2014 with 18% interest.
2. I have heard the learned Advocates for both the sides.
3. By an order dated 10/10/2013, the respondent has reinstated the petitioner as per the conditions set out therein subject to the result of the pending writ petitions between the parties.
4. By an order dated 20/02/2015, passed by this Court in CA

Nos.7031/2011, 7032/2011, 7033/2011 and 7034/2011 in WP Nos.6356/2010, 971/2010, 1848/2010 and 1847/2010, it was that the respondent / Department has preferred its petitions for challenging the judgment and order of the Labour Court and Industrial Court. The applicants have approached this Court by filing their writ petitions without exhausting the remedy u/s 44 of the MRTU and PULP Act, 1971. This Court has already concluded in Engineering Employees Union Vs. Devidayal Rolling and Refineries Pvt.Ltd., 1986 (52) FLR 40 = 1986 Mh.L.J. 331 that a writ petition directly filed in this Court, without exhausting the remedy u/s 44, is untenable.

5. Order dated 27/03/2015 in CA Nos.10737/2014, 10738/2014, 10739/2014, 10741/2014 has permitted the respondent to take undertaking from the applicants which would be without prejudice to the rights of the employees and would be subject to the result of the pending petitions.

6. Mr.Chavan, learned Advocate for the respondent submits that despite no back wages having been granted by the Labour Court or the Industrial Court, the respondent has deposited the back wages in this Court in the light of the order passed by this Court in WP

No.971/2010. It is from this amount of back wages that the salaries of the applicants are being adjusted. He further submits that the amounts deposited by the respondent in this Court have been withdrawn by the applicants pursuant to the orders of this Court dated 20/02/2015.

7. In the light of the above, this application is partly allowed by issuing the following directions :-

- a. The applicants shall execute the agreement within a period of 15 days from today and submit the same with the respondent, which will be without prejudice to their rights in this petition.
- b. The salaries payable to the applicants will be first adjusted from the amounts that they have already withdrawn.
- c. After the amount is adjusted against the salary as stated above, the respondent shall then commence the payment of salary to the applicants.
- d. This shall of course be subject to the contents of paragraph no.8 of the order dated 20/02/2015.
- e. These orders passed are without prejudice to the respective rights of the litigating sides.

(RAVINDRA V. GHUGE, J.)