

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 467 OF 2003

Maharashtra State Co-operative
Land Development Bank Ltd.,
District Branch, Shelke Chambers,
Opp. Zilla Parishad, Siddheshwar Peth,
Solapur (through its Branch Manager). ... Petitioner

v/s

Shri Nagnath Shankar Kadam,
Resident of Golvanchi,
Tal. North Solapur, Dist. Solapur. ... Respondent

Mr.Umesh Pawar i/by Surel Shah for the petitioner.

Mr.M.A. Chaudhari for the respondent.

CORAM: N.M. JAMDAR, J.

DATED : 10 SEPTEMBER 2015

ORAL JUDGMENT:

The Petitioner challenges the order passed by the learned Labour Court Judge, Solapur, dated 4 March 2002 modifying the basic wages of the Respondent and accordingly granting a monetary relief in an application filed by the Respondent under Section 33-C(2) of the Industrial Disputes Act, 1947.

2. The Respondent was working with the Petitioner as a

supervisor. He joined the services on 11 March 1968. By an order dated 20 March 1971 Respondent's one increment was stopped. By order dated 28 February 1972 two increments were stopped. In the year 1973, the process of amalgamation of the Solapur District Co-operative Land Development Bank with the Petitioner i.e. Maharashtra State Co-operative Land Development began. On 1 January 1975, pay fixation of the Respondent took place. While fixing the pay, two orders of stoppage of increments were taken into account and the basic wages of the Respondent were fixed at Rs.125/- instead of Rs.135/-. At that time, the Respondent did not approach any authority nor filed any dispute or any complaint challenging his pay fixation. He filed an application under Section 33-C(2) of the Industrial Disputes Act in the Labour Court, Solapur, on 12 November 1987 contending that his basic pay should have been ₹135/- and not ₹125/- and he should be paid the difference. He also sought grant of dearness allowance and travelling allowance. The application filed by the Respondent was contested by the Petitioner. The Petitioner contended that the pay fixation was made widely known and objections were called for and new pay scales were introduced from 1 January 1975. In spite of full knowledge of the pay fixation, the Respondent did not take any steps. It was contended that the pay fixation was rightly done.

3. The Labour Court came to the conclusion that the increments were withheld for a specific period of time and if the effect would have been given, the basic wages of the Respondent would be

Rs.135/-. The Labour Court relied upon certain statements made by the witness of the Petitioner to hold that the basic wages of the Respondent ought to be Rs.135/- instead of Rs.125/-. The claim of dearness allowance and other benefits sought by the Respondent were rejected. The Labour Court accordingly disposed of the application by the impugned order dated 14 March 2002.

4. The Labour Court has clearly overstepped its jurisdiction under Section 33-C(2) of the Industrial Disputes Act. The power conferred on the Courts under Section 33-C(2) is primarily to give speedy relief. It does not empower the Courts to adjudicate upon disputed entitlements at the first instance. Though it is correct that merely because employer says that the claim is disputed, the jurisdiction is not taken away, but in the present case, the Labour Court has clearly lost sight of the parameters. The pay fixation done on 1 January 1975 was with full knowledge of the Respondent. The Respondent did not raise any challenge to the said pay fixation for almost 13 years and sought to dispute the same by filing an application under Section 33-C(2). What the Labour Court has done is to go beyond the said pay fixation which stood unchallenged for 13 years. Even while deciding the said dispute, which is not permissible, the Labour Court has misconstrued the so called admissions of the witness of the Petitioner. The Labour Court has recorded a finding that the stoppage of increments were only for a limited period, was admitted, without noticing that the stand taken by the Petitioner in their say that this was not so. The

questions that were put to the witness of the Petitioner were on the merits of the pay fixation. The witness has stated that, if the effect of pay fixation was to be considered, then the change would have occurred in the payment. This would be the merits of the validity of the order of pay fixation. The question is, whether the Labour Court could, under Section 33-C(2) of the Industrial Disputes Act enter into the adjudication about the pay fixation. The Labour Court, first time after 13 years of the pay fixation, reopened the same, adjudicated the dispute and modified the pay fixation. This was clearly impermissible under Section 33-C(2) of the Act.

5. In the circumstances, order passed by the Labour Court needs to be set aside and the writ petition, therefore, deserves to be allowed.

6. Accordingly, Rule is made absolute in terms of prayer clause (b). No costs.

(N. M. JAMDAR, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.