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

CIVIL WRIT PETITION NO. 685 OF 2014

The Chief Officer, Karmala Nagar
Parishad, Karmala.

... Petitioner.

V/s.

Sandeshkumar Upadhye (since deceased)
Through His Legal Heirs.

... Respondents.

Mr. Sarang Satish Aradhye for the Petitioner.
Ms. K.G. Sarangi i/b. Bhagyashri Mangale for the Respondent.

CORAM : N.M. JAMDAR, J.

DATE : 12 OCTOBER, 2015.

P.C. :-

The Petitioner – Municipal Council challenges the order passed by the Labour Court, Solapur dated 14 February 2013 under Section 33-C(2) of the Industrial Disputes Act, directing the Petitioner to pay an amount of Rs.3,02,000/- to the Respondent Sandeshkumar Upadhye, who was working with the Municipal Council, who had filed a complaint before the Industrial Court making grievance regarding the unfair labour practice adopted by the Petitioner. The complaint was allowed by the Industrial Court

by order dated 29 October 2013. The Municipal Council sought restoration of the complaint on the ground that it was an ex-parte order. The Industrial Court did not set aside its order on the ground of delay and therefore, a Writ Petition was filed by the Petitioner which was dismissed. Thereafter, the Letters Patent Appeal was filed by the Municipal Council which was dismissed on 12 March 2009 alongwith similar other 12 Letters Patent Appeals.

2. The orders were passed by the Industrial Court, learned Single Judge and the Appeal Bench on the ground that the Industrial Court had no power to condone delay in filing an application to recall an ex-parte order. The Municipal Council challenged the decision of the Appeal Bench rendered in other connected matters. The learned Counsel for the parties have placed on record the order passed by the Apex Court on 28 August 2015 whereby the Apex Court has dismissed the Special Leave Petitions. The order passed in the matter of the Respondents by the Division Bench was not specifically challenged by the Municipal Counsel.

3. Since the view taken by the learned Single Judge and the Appeal Bench of this Court on law is not interfered with by the Apex Court and that the order of the Industrial Court passed ex-parte stands, there is no error in the impugned order passed by the Labour Court under Section 33-C(2) of the Act. Accordingly, The Writ Petition cannot be entertained and is rejected.

4. The amount is already deposited by the Municipal Council. The Respondent will be entitled to withdraw the same. There appears to be some discrepancy regarding the exact amount of interest as to whether it is Rs.76,000/-, or Rs.73,970/- which is deposited. The learned Counsel for the Respondent states that to put to an end to the dispute, the Respondent is agreeable to accept the amount of Rs.73,970/- as an amount of interest. The Registry shall accordingly take note that the interest amount is Rs.73,970/- is agreed by the parties.

5. The Respondent is entitled to withdraw the amount that is deposited.

(N.M. JAMDAR, J.)