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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 1702 OF 2015

M/s. Win Fit Mfg. Company and Ors. ... Petitioners.

V/s.

Mr. Parasnath Bindeshwar and Anr. ... Respondents.

Mr. K.S. Bapat i/b. Desai & Desai Associates for the Petitioners.

Mr. S.I. Kazi i/b. V.M. Parkar for Respondent 1.

CORAM : N.M. JAMDAR, J.

DATE : 27 OCTOBER, 2015.

ORAL ORDER :-

Rule. Returnable forthwith. Respondents waive service. Taken up for hearing with consent.

2. The Petitioners challenge the order passed by the Labour Court, Mumbai partly allowing the application filed by Respondent No.1 under Section 33 (C)(2) of the Industrial Disputes Act. The Labour Court has granted an amount of Rs. 93,376.50 towards arrears of minimum wages, Rs. 25,113/- towards arrears of paid holidays, Rs. 5,259.45 towards privilege leave and cost of Rs.50,000/- .

3. The learned Counsel for the Petitioners submitted that the order regarding grant of arrears of minimum wages could not have been passed as it is passed on the basis that Respondent No.1 is a skilled workman when in fact he was not doing skilled work. He submitted that Respondent No.1 had produced nothing on record to show that he was a skilled workman. This submission cannot be accepted. The Respondent No.1 had specifically taken a stand in their application on oath that Respondent No.1 was doing the work of skilled nature. There is no cross-examination by the Petitioners on this aspect neither the Petitioners have stated so in their examination-in-chief. The learned Judge has considered the nature of the work done by Respondent No.1 and has come to a conclusion that the job profile was of a skilled employee. The conclusion of the learned Judge cannot be termed as perverse and merely because by reading a job description given by the Applicant, another view is to be taken is not a ground to interfere in writ jurisdiction.

4. As regard the payment towards paid holidays, the learned Counsel for the Petitioners submitted that the Court had granted payments for ten National Holidays when there are no such ten holidays and Respondent No.1 has accepted that there are only four National Holidays. The cross-examination of Respondent No.1 only indicates that he has admitted that for four National Holidays the Company was closed. Therefore, from this

admission it cannot be said that he has admitted that there are no ten National Holidays. Furthermore, the amount granted towards the holidays is Rs. 25,113/-. Considering this amount, and that it is an supervisory jurisdiction, I am not inclined to reverse the findings of the Labour Court merely because some other view is possible. The equal reasoning applies to the amount of Rs. 5,259.45 towards privilege leave. The Court has observed that no documents have been shown regarding the payment of leave wages.

5. As regard the cost of Rs.50,000/-, the learned Counsel for the Petitioners is right in submitting that the cost of Rs.50,000/- could not have been awarded. There is no discussion in the order as to why the cost of Rs.50,000/- which is almost 50% of the principal amount is to be paid by the Petitioners. The direction towards costs therefore cannot be sustained and will have to be set aside.

6. Accordingly, the Petition is disposed off by partly modifying the order passed by the Labour Court, Mumbai dated 1 January 2015, by confirming the directions contained in paragraphs 2,3 and 4 of the impugned order. The direction contained in paragraph 5 of the impugned order is quashed and set aside.

7. The Labour Court has directed that the amounts are to be paid within one month of the date of the order. The same time limit shall apply for complying with the order passed by this Court.

8. The Petition is accordingly disposed off in above terms.
No costs.

(N.M. JAMDAR, J.)