

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.4834 OF 2014

The State of Maharashtra, Thr. General Manager, District Industrial Central Gondia, Gondia & Anr.

-vs-

Rajkumar Dudeswar Dahikar, Gondia & Anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. M. Bhagade, Assistant Government Pleader for petitioners
Shri V. K. Paliwal, Advocate for respondent No.1.

CORAM : A.S.CHANDURKAR, J.
DATE : JULY 31, 2015

Rule. Heard finally with consent of learned counsel for the parties.

The petitioners are aggrieved by the judgment dated 11/02/2014 passed by the learned Member, Industrial Court, Bhandara by which the complaint filed by respondent No.1 under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 has been allowed. There is a direction issued to pay respondent No.1 wages as per the Notification dated 15/02/2003.

On behalf of the petitioners it is submitted that the respondent No.1 had been engaged on temporary basis and therefore was being paid out of the contingency fund. The work was given as and when the same was available. It was also for a limited period per day. It was therefore submitted that the respondent No.1 was being paid as per Circular dated 02/11/1999. It is then submitted that various other documents which indicated payment being made from consolidated fund since the year 2003

are now placed on record and same could not be placed before the Industrial Court for its consideration. It is also submitted that the aspect of the petitioners being Industry is also required to be considered by the Industrial Court as said aspect was denied by the petitioners in reply filed before the Industrial Court.

The learned counsel for the respondent No.1 supported the impugned order and submitted that Notification dated 15/02/2003 was applicable and the respondent No.1 was entitled to receive minimum wages as per said Notification. He then submitted that the documents now sought to be relied were not placed on record before the Industrial Court and hence the order passed by the Industrial Court cannot be faulted.

Perusal of the impugned judgment indicates that the Industrial Court has found that the petitioners did not place on record any document to indicate that the respondent No.1 was not entitled for minimum wages as per Notification dated 15/02/2003. The documents now filed on record however indicate that payments were being made to the respondent No.1 in terms of order dated 02/11/1999 and said amount was being increased from time to time. It is therefore obvious that the documents now placed on record are prima facie relevant to adjudicate the issue and are required to be taken into consideration along with Notification dated 15/02/2003. All the aforesaid documents require re-examination by the Industrial Court. However at the same time the respondent No.1 will have to be compensated for undertaking aforesaid exercise.

Accordingly the following order is passed :

(i) The judgment dated 11/02/2014 passed by the learned Member, Industrial Court Bhandara is set aside.

- (ii) The proceedings are remitted to the Industrial Court for fresh adjudication.
- (iii) Liberty is granted to both the parties to place on record additional material in support of their respective contentions.
- (iv) As condition precedent, the petitioners shall pay costs of Rs.7500/- to the respondent No.1 before the Industrial Court.
- (v) The complaint shall be decided expeditiously and by the end of April 2016. Rival contentions on merits are kept open.
- (vi) Rule is made absolute in aforesaid terms. No order as to costs.

JUDGE