

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

MISC. CIVIL APPLICATION NO.1082/2014 (FOR REVIEW)

IN

WRIT PETITION NO.5139/2013 (P)

Minexplore Employees Democratic Union, Nagpur and others

...Versus...

Industrial Court (Member : Hon' Shri S.S. Patil) Nagpur and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.P. Gera, Advocate for applicants/petitioners
Shri M.D. Samel, Advocate for non-applicant no.2/respondent no.2

CORAM : Z.A. HAQ, J.

DATE : 13.02.2015

1. This is an application filed by the petitioners-employees seeking review of the order passed by this Court on 16.7.2014.

2. The petitioners-employees challenged the order passed by the Industrial Court disposing the complaint filed under Section 28 read with Item 9 Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, on the basis of the compromise (Exh.107). In the writ petition, the contention of the petitioners is that the impugned order is obtained by misrepresentation. According to the petitioners, they are not willing to accept the terms of compromise on the basis of which the impugned order is passed.

3. Shri A.P. Gera, the learned Advocate for the applicants/petitioners has filed Pursis dated 13.2.2015 giving

details of the heads under which the other similarly situated employees have been paid monetary benefits after they have accepted the terms of compromise as suggested by the non-applicant no.2/respondent no.2.

4. Shri M.D. Samel, the learned Advocate for the non-applicant no.2/respondent no.2 has not denied the contentions of the applicants/petitioners in this regards.

5. Shri A.P. Gera, the learned Advocate for the applicants/petitioners has submitted that except for item no.1 (A) (b) the amount for all other heads has been given to the other similarly situated employees after those employees have signed the terms of the compromise.

6. It appears that the non-applicant no.2/respondent no.2 is not making the monetary benefits available to the applicants/petitioners only because they are not willing to accept the terms of compromise and sign the terms of compromise. It is undisputed that even if the writ petition filed by the applicants/petitioners is dismissed, they will be entitled for the monetary benefits as shown in the Pursis dated 13.2.2015 [Except Item no.1(A) (b)] from 28.01.2000 and if the applicants/petitioners succeed in the writ petition, they may be held entitled from August, 1991.

7. This Court has passed order on 21.4.2014 recording the submission made on behalf of the non-applicant no.2/respondent no.2 that it is willing to pay the dues to the petitioners as well as the other similarly placed employees as per the compromise. The matter was adjourned on 21.4.2014. Subsequently, when the petition is admitted on 16.7.2014 there was some reluctance on the part of the applicants/petitioners to

provisionally accept the monetary benefits from January, 2000 and therefore, the prayer clause (d) of the writ petition was not considered. However, the applicants/petitioners have now come up with the present application and considering the facts of the case specially that the applicants/petitioners (Except petitioner no.2) have retired and similar monetary benefits are given to other similarly situated employees, who have accepted the terms of compromise and signed the compromise, to subserve the interests of justice, the following order is passed.

(i) The non-applicant no.2/respondent no.2 shall make available to the applicants/petitioners the monetary benefits as per the compromise filed before the Industrial Court (Exh.107 on the record of the Industrial Court) and at page no.19 of the writ petition.

(ii) This is an interim order subject to the adjudication of the rights of the parties in the writ petition. It is clarified that the non-applicant no.2/respondent no.2 shall not insist for acceptance of the compromise or signing the compromise for granting the monetary benefits, as directed by this order. The non-applicant no.2/respondent no.2 shall make the payment till 15.04.2015.

The misc. civil application is allowed in the above terms.

JUDGE

Wadkar