

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

MISC. CIVIL APPLICATION NO.641 OF 2015

IN

WRIT PETITION NO.1368 OF 2010 (D)

(Babasaheb Kedar Shetkari Sahakari Sutgirni Maryadit ..vs.. Shri Waman s/o Keshaorao Yellure and
another)

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

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 09-12-2015

Heard Shri V.D. Raut, learned Advocate for the applicant and Ms. Ritu Vinod Kalia, learned Assistant Government Pleader for the non-applicant No.2.

2. The applicant/original petitioner seeks review of the judgment passed by this Court in Writ Petition No.1368/2010 on 05-11-2014.

3. Shri V.D. Raut, learned Advocate for the applicant has submitted that the Labour Court had committed an error in granting relief to the non-applicant No.1-workman exercising its jurisdiction under Section 33-C(2) of the Industrial Disputes Act, 1947, when the claim as made by the non-applicant No.1-workman was neither determined in any earlier proceedings nor the non-applicant No.1-workman had established that it was a pre-existing right. The contention made on behalf of the applicant is contrary to the facts on the record. The

Labour Court directed the applicant to pay the amount of unpaid half salary for the period from 15-06-1995 till 24-09-1996 and for the period from 25-09-1996 till 31-03-1997 during which the non-applicant No.1-workman was under suspension. It is recorded in the order passed by the Labour Court that the order suspending the non-applicant No.1-workman was withdrawn by the applicant. The applicant has not been able to point out that the finding recorded by the Labour Court is not correct.

4. The Labour Court directed the applicant to pay the unpaid salary for the period from 01-04-1997 till 07-11-1997 and the outstanding bonus for the period 1995-96 and 1996-97 and encashment of leave with wages for 1995-96 and 1996-97. Considering the nature of claim made by the non-applicant No.1-workman, it cannot be said that the Labour Court committed any error of jurisdiction.

5. The learned Advocate for the applicant has submitted that the non-applicant No.1-workman had not availed the remedy under the Payment of Bonus Act and relief could not have been granted under Section 33-C(2) of the Industrial Disputes Act, 1947. However, the learned Advocate for the applicant has not been able to point out that this point was raised and argued before the Labour Court.

6. In my view, it cannot be said that there is any error apparent on the face of the record which necessitates the review of the judgment.

7. The application is dismissed. In the circumstances, the parties to bear their own costs.

JUDGE

pma