

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3864 OF 2016

1. The State of Maharashtra,
Through the Commissioner,
Dairy Development,
Maharashtra State,
Mumbai.

2. The Regional Dairy Development Officer,
Jalna Road, Aurangabad.

3. The General Manager,
Government Milk Scheme,
Udgir, Tq. Udgir, Dist.Latur

PETITIONERS

VERSUS

Secretary,
Marathwada Lalbawata Kamgar Union,
Trade Union Karyalaya,
Jalkoat Road,
Udgir, Dist. Latur

RESPONDENT

Mr.S.W.Munde, AGP for the petitioners.
Mr.A.N.Gaddime, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 29/07/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. This matter was heard at length on 27/07/2016.

3. After these matters were heard, I had expressed my view that the impugned judgment suffers from lack of reasons, while allowing the demands put forth by the Union.

4. Learned Advocate for the respondent / Union submits on instructions that the impugned award can be set aside by consent, with a request that the Industrial Court, Latur be directed to decide the Reference (IT) No.1/2011 afresh within a stipulated period.

4. From the impugned order, it appears that the demands at Sr.Nos.2, 3, 4 and 5 have been allowed without proper reasons and without there being evidence on record to support the said demands. By merely observing that the demand is just, reasonable and proper, cannot be a ground on which an Industrial Tribunal could conclude that the demands deserve to be allowed. It is trite law that in Reference matters, concerning various demands including wage rise demands, there has to be sufficient evidence on record and the principle of Region cum Industry as well as parity have to be considered. I do not find from the impugned judgment any justification to the extent of demand Nos. 2 to 5.

5. In so far as the first demand of parity is concerned, the learned AGP has submitted that those 84 employees, who have been made permanent in Class III category, are skilled workers and those workers involved in the reference proceedings at issue are not skilled workers. In the said backdrop, though the Industrial Tribunal has extensively dealt with this issue in paragraph Nos. 22 to 25, I do not find any evidence referred to by the Tribunal on the count that the nature of work done by the claimant unskilled labourers is identical to the nature of the work being performed by the skilled workers.

6. In the light of the above, this petition is partly allowed. The impugned award dated 27/08/2015 is quashed and set aside. Reference (IT) No.1/2011 is remitted to the Industrial Tribunal, Latur on the following conditions :-

- [a] The litigating sides shall appear before the Industrial Court, Latur on 12/08/2016.
- [b] The litigating sides are at liberty to adduce further oral and documentary evidence.
- [c] The evidence already adduced shall not be discarded by the Tribunal.
- [d] After the recording of evidence is over and upon hearing the parties, the Industrial Tribunal shall decide Ref.(IT) no.1/2011 by adducing reasons and on its own merits, without being influenced by any of its observations set out

in the impugned award which has been set aside, as expeditiously as possible and preferably on or before 31/03/2017.

7. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)