

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7275 OF 2015

BHIMRAO ANNASAHEB KARANDE
VERSUS
CHIEF EXECUTIVE OFFICER, BEED

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Advocate for Petitioners : Shri Patil Sandesh R.
AGP for Respondents:
Advocate for Respondents 3,4 & 14 : Shri Sawant

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 30, 2016

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PER COURT :-

1. The petitioner seeks leave to delete the deceased respondent Nos. 6, 9, 11 and 12.
2. Liberty to delete is granted at the risk of the petitioner.
3. Deletion to be carried out forthwith.
4. Respondent Nos.2, 5 and 7 have also been deleted as they have passed away.
5. Shri Suryavanshi, learned Advocate appears for respondent No.1. Shri Sawant, learned Advocate appears on behalf of respondents 3,4 and 14.

6. Shri Sawant submits that he is representing the co-claimants, who were party to Application (IDA) No.214 of 2004, along with the petition.

7. The petitioner points out that the Labour Court, Aurangabad by its order dated 3.12.2013 has dismissed Application (IDA) No.215 of 2004 in default. He submits that the representative of the applicants was not present in the Court. All the applicants are age old retired persons. All of them are claiming monetary benefits, post retirement. By the impugned order, they have lost an opportunity of seeking justice only because the representative was not present in the Court. The petitioner has not acted deliberately and derives no advantage by delaying his own matter.

8. Shri Sawant submits that the respondents represented by him are co-claimants with the petitioner. He supports the submissions of the petitioners and prays that this petition be allowed.

9. Learned Advocate for respondent No.1 has strenuously opposed the petition. He submits that the proceedings were instituted in 2004. After nine years, the said proceedings have been dismissed in default. Since the matter was delayed and was not being prosecuted by the claimants, the Labour Court realized that they have no interest in the proceedings. He further submits that

the claimants have claimed interest and by delaying the matter, the respondent / establishment would be subjected to further interest due to the fault of the claimants. He, therefore, prays that the petition be dismissed with heavy costs.

10. I have considered the submissions of the learned Advocates.

11. There is no dispute that all the claimants before the Labour Court are age old persons. Seven amongst the claimants have already passed away. The petitioner is 80 years old as on date. The lapse on the part of their representatives in not remaining present before the Labour Court should not result in closing the doors of justice on such senior citizen.

12. It also cannot be ignored that the claimants have prayed for interest on the amounts allegedly due. Delay in the matter is likely to enhance the interest in the event the claimants succeed. They cannot be permitted to take advantage of their own lapses. Equities, therefore, will have to be balanced if the proceedings before the Labour Court are to be restored.

13. In the light of the above, this petition is partly allowed. The impugned order dated 3.12.2013 is quashed and set aside. Application (IDA) No.215 of 2004 is restored to the file of the Labour

Court. The original claimants, who are before this Court and respondent No.1 / establishment shall appear before the Labour Court on 21.10.2016.

14. Formal notices need not be issued. In the event, legal heirs of the deceased / claimants are to be brought on record, an application to that effect shall be filed within thirty days from the date of appearance before the Labour Court.

15. The Labour Court shall endeavour to decide the said proceedings as expeditiously as possible and preferably before the end of July, 2017. The Labour Court shall deprive the claimants of interest for the period 3.12.2013 till 20.10.2016 on any money, if is held due and payable to them in these proceedings.

(RAVINDRA V. GHUGE, J.)

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