

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1263 OF 2015

AMBAJOGAI SAHAKARI SAKHAR KARKHANA
LTD., BEED

PETITIONER

VERSUS

LAXMAN EKNATH HATAGALE
AND OTHERS

RESPONDENTS

Mr.T.G.Gaikwad, Advocate for the petitioner.

Mr.Anand Chawre, Advocate for respondent Nos. 1 to 3.

Respondent No.4 served.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 08/08/2016

PER COURT :

1. This matter was heard at length on a number of occasions. The contentions of the petitioner have been recorded in the order dated 08/02/2016 which read as under :-

"1] This matter was heard for some time. The petitioner is aggrieved by the judgment and order dated 5.10.2013 by which Complaint (ULP) No.163/2010 has been allowed. The petitioner, though appeared before the Industrial Court, did not file a written statement, did not cross-examine the complainants and did not lead any evidence. After recording of evidence was over, an application was filed on 16.3.2013 praying for setting aside the "no cross order". The said application (Exh.C-7) was rejected on 4.9.2014 and the petitioner did not choose to challenge the said order.

2] Learned Advocate for the petitioner prays for a remand and re-hearing of the complaint before the Industrial Court.

3] Shri Chawre, learned Advocate appearing on behalf of the respondent nos.1 to 3 submits that the petitioner must establish its bona-fides by depositing the entire amount as is granted by the industrial Court.

4] After hearing the learned Advocates, I have confronted the learned Advocate for the petitioner that if the amount, as granted by the Industrial Court, is deposited before the Industrial Court, with liberty to the respondents to withdraw 50% of the amount, this Court may consider the prayer for remand.

5] Learned Advocate for the petitioner prays for an adjournment so as to take proper instructions from the petitioner and make a statement on the next date.

6] In the light of the above, S.O. to 29.2.2016 for enabling the learned Advocate for the petitioner to make a statement."

2. Mr.Gaikwad submits on instructions that this Court may remand Complaint (ULP) No.163/2010. This Court may direct the petitioner to deposit some amount and in the event the respondents are permitted to withdraw the said amount, that should be subject to the result of the complaint.

3. It is further stated that since the issue is as regards settlement of legal dues, payment of unpaid dues and recovery of amounts from

the respondents/employees, the petitioner/factory would deposit all documents, which would assist the Industrial Court in properly calculating the monetary benefits and accordingly decide the complaint.

4. Mr.Chawre, learned Advocate for the respondents/employees categorically states that some of the retiral benefits have been cleared and paid by the petitioner/factory. While doing so, the Credit Society dues have already been adjusted against the benefits paid. The respondents would also produce necessary documents to assist the Industrial Court for properly calculating the legal dues. He, however, submits that the petitioner be directed to deposit the entire amount, as is granted by the Industrial Court, since the petitioner is praying for a remand and would virtually reverse the litigation by six years.

5. Having considered the contentions as advanced by the litigating sides, I find that it would be in the interest of justice that the petitioner is permitted to participate in the ULP complaint. There is no dispute that due to the negligence and laxity on the part of the petitioner/factory, the complaint had to be decided practically *ex-parte*.

6. To ensure that the litigation is brought to an end, considering that the issue of payments of legal dues is involved, I am hereby partly allowing this petition with the following directions :-

- [a] Complaint (ULP) no.163/2010 stands restored to the file of the Industrial Court, Aurangabad.
- [b] The petitioner shall deposit an amount of Rs.1,00,000/-in favour of each of the four respondents before the Industrial Court on or before 08/09/2016.
- [c] Each of the respondents will withdraw the said amount from the Industrial Court by submitting an affidavit / undertaking that the amount shall be adjusted against their legal dues, which are subject to the result of the ULP complaint and in the event some amount is to be recovered from the respondents/original complainants, they would return the said amount within 12 (twelve) weeks from the date of the Industrial Court's judgment.
- [d] The petitioner shall not seek extension of time for depositing the amount, as directed above.
- [e] If the abovesaid conditions are complied with, the petitioner shall file its detailed written statement alongwith all documents on which it places reliance, while depositing the amount before the Industrial Court on or before 08/09/2016.
- [f] The respondents/original complainants are permitted to place on record documents as they deem fit for the assistance of the Industrial Court.
- [g] The litigating sides shall appear before the Industrial Court on 26/08/2016 and formal notices need not be issued by the Court.
- [h] The litigating sides may adduce evidence and the Industrial Court shall then decide the ULP complaint, as expeditiously as

possible.

- [i] The complaint shall be decided by the Industrial Court on all issues raised by considering the rival contentions of the parties.
- [j] If the petitioner fails to deposit the said amount or even if there is a shortfall in depositing the amount within the time frame, this order shall stand recalled, this petition shall stand dismissed and the judgment of the Industrial Court dated 05/10/2013 would then stand restored and would be executable.

7. With the above directions, the impugned judgment dated 05/10/2013 is set aside. Rule is made partly absolute.

(RAVINDRA V. GHUGE, J.)