

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3221 OF 2015

MAHATMA PHULE KRISHI VIDYAPEETH
VERSUS
VIJAYA SAKHARAM VAIDYA

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Advocates for Petitioner : Shri Shahane P.L. & Shri Shahane Parag
Advocate for Respondent : Shri Barde Parag Vijay

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

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PER COURT :-

1. The petitioner has challenged the order dated 10.7.2014 delivered by the Labour Court in Application (IDA) No.4 of 2006 by which an amount of Rs.10,300/- has been directed to be paid to the widow of the deceased employee.

2. Shri P.L.Shahane learned Advocate has strenuously criticized the impugned judgment. Contention is that an interim arrangement was made by the Industrial Court in the nature of a direction to pay wages to the deceased employee till his complaint was decided. Since eventually the complaint was dismissed by the Labour Court, this interim order would merge in the final order and the deceased employee would have no right to any wages being paid by the petitioner.

3. Shri Shahane submits that the deceased was dismissed on 15.2.1994. He preferred a Complaint (ULP) No. 28 of 1994 before the Labour Court. By

Part I order dated 26.11.1996, the enquiry was upheld. Prior thereto, by an interim order dated 21.4.1995, the application for interim relief was allowed and the petitioner was directed to pay wages to the employee from 1.4.1993.

4. Shri Shahane submits that the petitioner preferred Revision (ULP) No.95 of 1995 before the Industrial Court. By judgment dated 26.3.1996, the interim order of the Labour Court was set aside. However, the Industrial Court directed the petitioner to pay monthly wages to the deceased employee from March 1996 till the disposal of his complaint.

5. He further submits that the Complaint was dismissed by the Labour Court on 3.7.1998. The employee preferred Revision (ULP) No. 39 of 1998, which was allowed by the judgment of the Industrial Court dated 18.4.2008. In the meanwhile, the employee had passed away in 2002.

6. Shri Shahane makes a grievance that the direction of the Industrial Court dated 26.3.1996 would be extinguished by the dismissal of the Complaint on 3.7.1998 by the judgment of the Labour Court. As such, the employee would not be entitled for any wages.

7. He further submits that the wages paid to the deceased employee under directions of the Industrial Court, though were at the rate of the IV Pay Commission, he would not be entitled for the V Pay Commission recommendations. He further relies upon the Maharashtra Civil Services

(Discipline and Appeal) Rules 1979 by which a dismissed employee will not be entitled for any benefits. He, therefore, submits that the impugned judgment by which the Labour Court has granted the difference in between the IV Pay Commission and V Pay Commission is unsustainable.

8. Shri Barde, learned Advocate for the respondent / Widow of the deceased employee supports the impugned judgment.

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

10. Issue is as to the rate at which the wages were to be paid to the employee under the orders of the Industrial Court dated 23.6.1996.

11. The petitioner contends that since the complaint was eventually dismissed on 3.7.1998, he would not be entitled even for wages, much less as per the V Pay Commission recommendations. I am unable to accept these submissions. The Industrial Court by order dated 23.6.1996 directed the petitioner to pay wages to the employee till disposal of the Complaint pending before the Labour Court. This order has not been set aside by any superior Court. It has attained finality. The petitioner was, therefore, under an obligation to pay wages to the employees till his complaint was decided on 3.7.1998.

12. Since the wages were not paid, the employee had resorted to Section 50 proceedings under the Maharashtra Recognition of Trade Unions and

Prevention of Unfair Labour Practices Act, 1971 (“the said Act ”) and was, therefore, paid his wages under the directions of the Industrial Court. It is not in dispute that he had not raised the issue of V Pay Commission since at the relevant time, the wages were not paid and the employee, therefore, could not have speculated whether he would be paid the unpaid wages as per the IV Pay Commission or the V Pay Commission.

13. The impugned order is a result of the claim of the employee towards the short fall in payment of wages since the petitioner had paid the said wages as per the IV Pay Commission though the V Pay Commission was made applicable from 1.1.1996.

14. Shri Shahane has relied upon the judgments of this Court in the matter of Development Corporation of Konkan Vs. Prakash Udaybeer Singh [2007 III CLR 463] and Mukund Nana Edke Vs. Dainik Gavkari and other [2009 (120) FLR 394], to support his contention that there must be a preexisting right for setting forth a claim for recovery of amounts due from an employer. In the instant case, there is no dispute that the Industrial Court by judgment dated 23.6.1996 directed payment of wages till the disposal of the complaint before the Labour Court. The employee, therefore, had a right to the wages. It is not disputed that the V Pay Commission recommendations were made applicable and hence the claim for difference of wages was made.

15. In my view, when a Court passes an order of payment of wages as an

interim arrangement in lieu of reinstatement or for any given reason, the wages have to be paid on the basis of the principle of parity and equal wages for equal work. It is in this backdrop, that the Labour Court concluded that an amount of Rs.10,300/- is the shortfall amount and which needs to be paid to the widow of the deceased employee.

16. I do not find that the impugned judgment could therefore, be termed as perverse or erroneous.

17. The Labour Court has granted interest at the rate of 9% p.a. over the amount of Rs.10,300/-. I find that the imposition of interest is not justified since it was only a matter of interpretation as to whether the employee would be entitled for the wages under the IV Pay Commission or the V Pay Commission. Issue was only with regard to difference of amounts of about Rs.400/- per month.

18. In the light of the above, this petition is partly allowed. The direction of the Labour Court imposing interest is set aside. The amount of Rs.10,300/- shall be paid by the petitioner to the respondent within a period of one month from today, failing which the interest granted by the Labour Court would be made applicable from the date of judgment of the Labour Court.

(RAVINDRA V. GHUGE, J.)

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