

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 244 OF 2014

Adiwasi Dudh Utpadak Krushi Purak Sangh,
Nandurbar Ltd., Market Yard, Nandurbar,
Through its Secretary/Chairman.

..Petitioner

Versus

Rahimkhan Nasirkhan Pathan,
Age : 54 years, Occu.: Nil,
R/o : Alisab Mohalla, Nandurbar,
Tq. and District Nandurbar.

..Respondent

WITH
WRIT PETITION NO. 245 OF 2014

Adiwasi Dudh Utpadak Krushi Purak Sangh,
Nandurbar Ltd., Market Yard, Nandurbar,
Through its Secretary/Chairman.

..Petitioner

Versus

Ratnakar Dagadu Girnar,
Age : 51 years, Occu.: Nil,
R/o : 19, Patelwadi, Girnar, Korit Road,
Nandurbar, Tq. and District Nandurbar.

..Respondent

WITH
WRIT PETITION NO. 309 OF 2014

Adiwasi Dudh Utpadak Krushi Purak Sangh,
Nandurbar Ltd., Market Yard, Nandurbar,
Through its Secretary/Chairman.

..Petitioner

Versus

Kedar S/o Barku Patil,
Age : 50 years, Occu.: Nil,
R/o : At Post Wawad,
Tq. and District Nandurbar.

..Respondent

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Advocate for Petitioners : Shri Bagul D.S.
Advocate for Respondents : Shri Magre A.G.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 04, 2016
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ORAL JUDGMENT :-

1. Heard.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petitions are taken up for final disposal.
4. In all these petitions, the petitioner is the same establishment and the respondents are identically placed employees.
5. In all these petitions, the petitioner has challenged the impugned judgments of the Labour Court and the Industrial Court.
6. At the time of issuing notices, this Court, by order dated 15.1.2014 had directed the respondents / employees not to initiate coercive steps for seeking implementation of the impugned judgments.
7. During the course of hearing in these matters on 4.1.2016, 25.1.2016, 15.2.2016 and today, it has emerged that the petitioner / establishment is no longer conducting its business or any commercial activity. A Liquidator has also been appointed on the establishment, which issue is sub-judice.
8. Considering the above and considering the request made by the employees, this Court had passed an order on 15.2.2016, as follows:-

“1. Mr. Magare, learned Advocate for the respondents / employees in all these petitions seeks time to seek instructions as to the present status of the petitioner/Establishment and as to whether the respondents would prefer quantified compensation in lieu of the orders of reinstatement made by the learned Labour Court and the learned Industrial Court, impugned in this petitions.

2. Mr. Bagul, learned Advocate submits that the petitioner/ Establishment is not conducting any business. There is no commercial activity. An order appointing a liquidator on the petitioner/Establishment has been passed by the competent authority and the said order is subjudice in the appeals preferred by the petitioners u/s 152 of the Maharashtra Cooperative Societies Act, which is pending before the Hon'ble Minister.

3. Stand over to 04/03/2016 to enable the learned Advocate for the respondents to take instructions and make a statement.”

9. Shri Magre, learned Advocate submits on instructions from the respondents present in the Court, that they are satisfied if retrenchment compensation under Section 25-F and gratuity are calculated by this Court, deducting the earlier amounts paid. With the said amount to be paid, these petitions can be disposed off.

10. Shri Magre, however, submits that by the purshis filed on 25.3.2011 before the Labour Court at Dhule, Exhibit C-38, by the petitioner, the amount of Rs.74,287.35 Ps. is paid to each of the respondents, towards the unpaid wages, current wages, *ex gratia* amount and bonus. He further submits that the amount of Rs.26740/- paid to each of the respondents was

towards retrenchment compensation, notice pay and six months' wages. He, therefore, submits that considering the last drawn salary of the respondents at the rate of Rs.3800/- this Court may quantify an additional amount as may be paid to these respondents.

11. Shri Bagul, learned Advocate has graciously submitted, on instructions from the petitioner, that the amount as may be directed by this Court would be paid to the respondents, so as to bring this litigation to an end.

12. In the light of the above, considering the last drawn wages of the respondents and they having put in about 22 years of service with the petitioner, the retrenchment compensation as per Section 25-F would be about Rs.48,231/-. Therefore, the Gratuity amount would be practically the same at Rs.48,231/-. One month's notice pay, if added, would bring the total to 1,00,262/- (inclusive of Gratuity) to be paid to each of the workers.

13. The amount already paid to the each respondents is Rs.1,01,027/-.

14. The respondents have fairly stated that Rs.26740/- has already been paid to them towards retrenchment compensation and Rs. 74287/- is towards outstanding wages, bonus as well as *ex gratia*.

15. In the light of the above, I find that a lump sum compensation of Rs.50,000/- to be paid to each of the respondents in addition to Rs.1,01,027/- having already been paid, would take care of the residual

retrenchment compensation as well as the Gratuity payable.

16. In the light of the above, these three petitions are partly allowed. The impugned orders directing the reinstatement of the respondents with allied benefits stand modified, considering the amounts already paid to them and having computed a further payment of Rs.50,000/- to each of them, as per the statements made by the respondents.

17. The petitioner shall, therefore, pay an amount of Rs.50,000/- (Rs. Fifty Thousand only/-) to each of the respondents, within a period of four weeks from today.

18. Rule is made partly absolute in these terms.

19. Needless to state, the respondents shall be precluded from raising any issue about any demands or claims in relation to their employment and non-employment, before any authority, Court or tribunal.

(RAVINDRA V. GHUGE, J.)

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