

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 5849 OF 2001

The Director,
Khadi Gramodyog Mandal Reshim
Udyog Kendra, 24-B,
Bombay Poona Road, Pune 411 003.

... Petitioner

v/s

1. Sou. Gangubai Anand Alhat
2. Sou. Ranjana Kisan Tikone
3. Sou Chandrakala Suresh Tikone
4. Sou. Asha Lahu Shelar
5. Sou. Muktabai Rambhau Ubhe
6. Sou. Shantabai Mohan Kakade
7. Sou. Kojagiri B. Jagtap
8. Sou. Gangubai Sudam Kakade,
C/o. Sarva Shramik Sanghatana
101, Shivajinagar, Pune – 411 005.

... Respondents

Mr.A.D.Kango, A.G.P. for the petitioner.

None present for the respondents.

CORAM: N.M. JAMDAR, J.

DATED : 14 JANUARY 2016

ORALJUDGMENT:

By this petition, the Petitioner State challenges the order passed by the Presiding Officer, Labour Court, Pune, dated 28 February 2001, allowing the application filed by the Respondents

under Section 33-C(2) of the Industrial Disputes Act, claiming benefits of bonus and leave wages.

2 Rule has been issued in this petition on 19 December 2001 and interim relief has been granted. Respondents are served. None appears for the Respondents. The petition appeared on board for hearing twice earlier and no appearance is entered on behalf of the Respondents.

3 The Respondents sought benefits of bonus and leave wages of the service they have put in from 1986 to 1991. According to the Respondents, they had worked continuously from 1986 till 1991 and they are entitled to five years' bonus and leave wages. The Petitioner had contested the application on the ground that the Petitioner does not fall in the definition of 'industry' and Payment of Bonus Act is not applicable. It was contended that the provisions made under the Bombay Khadi and Village Industry Act, 1960, is applicable for which grants are received from the Government. It was also contended that provisions of Factory Act are also not applicable to the Petitioner. The Labour Court framed issues and went into the question whether the Petitioner is an industry and the Factories Act and Bonus Act are applicable. The Labour Court considered the matter in great detail and concluded that the Petitioners were covered under the payment of Bonus Act and Factories Act. This adjudication was done for the first time by the Labour Court. The Respondents earlier had filed a complaint for

reinstatement and it was dismissed. The Labour Court, on its own, held that the Respondents who were working on daily wages had completed 240 days and were entitled to all the benefits as permanent employees. The grievance made by the learned A.G.P. that such exercise was beyond the jurisdiction of the Labour Court, is justified. The application made by the Respondents was not based on any pre-existing right and the seriously disputed the question regarding the applicability of the Act and whether the Respondents had become permanent in service, could not have been decided by the Labour Court in an application under Section 33-C(2) of the Act. The impugned order, therefore, needs to be interfered with.

4 In spite of service of Rule, no appearance is filed on behalf of the Respondents for the last 15 years. It appears that Respondents are also not interested in supporting the impugned order.

5 In the circumstances, the petition is allowed. Rule is made absolute in terms of prayer clause (a). No order as to costs.

(N. M. JAMDAR, J.)