

Sequeira

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

WRIT PETITION NO. 6267 OF 2000

The Chairman,
Satara Taluka Shetkari Sahakari Kharedi
Vikri Sangh Ltd.,
Satara, Head Office
Market Yard, Raviwar Peth, Satara .. Petitioner

Versus

1. Shri Sampatrao Bayaji Kadam
having his address at 10,
Mangalwar Peth Satara.
2. Shri V.S.Kulkarni,
Presiding Officer,
Labour Court, Satara. .. Respondents

Along with
WRIT PETITION NO. 1681 OF 2001

Shri Sampatrao Bayaji Kadam
having his address at 10,
Mangalwar Peth Satara. .. Petitioner

Versus

Chairman,
Satara Taluka Shetkari Sahakari
Kharedi Vikri Sangh Limited, Satara,
having office at Market Yard,
Raviwar Peth, Satara. .. Respondent

Mr.S.S.Pakale a/w Mr.S.M.Katkar, for the Petitioner in W.P. No.6267 of 2000 and Respondent in W.P. No.1681 of 2001.

Ms.Nazia Shaikh, for the Petitioner in W.P. No.1681 of 2001 and Respondents in W.P. No.6267 of 2000.

***CORAM: N.M.Jamdar, J.
Tuesday 5 January, 2016.***

Oral Judgment :

These two Writ petitions arise from the order passed by the Labour Court Satara, dated 2 June 2000 in the application filed by the Employee-workman S.B.Kadam under Section 33C(2) of Industrial Disputes Act, 1947. Writ petition No.6267 of 2000 is filed by the Management-Sangh challenging the impugned order which directs the management to pay an amount of ₹ 47,403 to the Employee with interest @ 10 per cent and Writ Petition No.1681 of 2001 is filed by the Employee seeking enhancement of rate of interest to 18 per cent.

2. The Employee was appointed on 25 January 1966 as an accountant. According to him he was not paid his due increments. On 31 December 1989, he was sought to be compulsorily retired. He filed a Writ petition No.466 of 1989 and an interim order was passed directing that the Employee should be taken back in service. Accordingly he was taken back in service on 26 February 1990 and he worked till 29 March 1994. According to him he was only given an amount of ₹ 1,132 when he was entitled to much more. The Employee made an application on 28 February 1990 after he was

taken back in service, for the difference, but he was not given the same. He filed an Application No.5 of 1994 in the Labour Court, Satara for grant of benefits, with 18 per cent interest, as per the annexure to the application. The application was resisted by the Management on the ground that the Applicant was not a workman as contemplated in the Industrial Disputes Act, 1947. It was contended that the Applicant was not entitled to any benefits as sought for. The Labour Court, after considering rival contentions, allowed the application and directed the Management to pay an amount of ₹ 47,403 along with interest at the rate of 10 per cent p.a., by the impugned order dated 2 June 2000. Thereafter the Writ petition No.6267 of 2000 was filed by the Management in which Rule was issued on 23 January 2001 and interim relief staying the operation of the order was granted.

3. I have heard the learned counsel for the parties.

4. Mr.Pakale, the learned counsel for the Management submitted that the Employee was not a 'workman' within the definition of the Industrial Disputes Act of 1947. He submitted that the Labour Court did not consider that the case of the Employee himself in the application showed that he was not a workman. He submitted that this being a disputed position, the Labour Court could not have gone into the said issue. I have considered this submission. The Employee in his application has stated that he was working as an accountant. The Labour Court has taken this employment as one of clerical nature. The Labour Court has also

observed that nothing is shown by the Management that the Employee was performing mainly supervisory or managerial duties. Merely because the Employee stated that he was doing the work of an accountant does not mean that he was performing managerial or supervisory duties. Employee had crossed the first threshold of establishing that he was performing duties of clerical nature. In the circumstances, no detailed adjudication was required to ascertain as to whether the Employee was a workman. Merely because a bald defence is raised by the Management that the Applicant is not a workman, the jurisdiction of the Labour Court is not divested. Such issue, when it does not require a detailed adjudication, is an incidental issue.

5. Mr.Pakale then submitted that there is no application of mind by the Labour Court as to how the amount of ₹ 47,403 is arrived at. There is no merit in this submission. The schedule was annexed to the application. The Labour Court examined the schedule and found that the rates and calculations made in the schedule were not suffering from any infirmity. Having held that the Employee was entitled to the relief prayed for, all that the Labour Court has done is to give effect to the calculations provided by the Employee. Therefore, there is no infirmity in the impugned order on that count.

6. Mr.Pakale then contended that the imposition of interest of 10 per cent is unduly harsh. The interest is granted from the date of the order i.e. 2 June 2000. However, interim order is passed in

favour of the Management in this petition on 23 January 2001. The interest would be for a period of 2 June 2000 to 23 January 2001, which would be negligible and on that count I am not inclined to interfere with this direction.

7. As regards the Writ petition No.1681 of 2001 filed by the Employee seeking enhancement of interest at the rate of 18 per cent p.a., no cogent reason as to why the interest of 10 per cent which has been granted needs to be enhanced. Merely because the Employee claimed interest at the rate of 18 per cent, it cannot be granted. The Industrial Court has balanced the equities. In the circumstances, there is no reason to interfere with the impugned order as it stands. Accordingly, both the petitions are dismissed. **Rule is discharged** in both the petitions. No order as to costs.

(N.M.Jamdar, J.)