

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 10835 of 2016

District : Ahmednagar

Ahmednagar Mahanagar Palika,
Ahmednagar,
Through its Commissioner.

.. Petitioner.

versus

Madhukar Chandrabhan Galphade,
Age : 40 years,
Occupation : Private Service,
R/o. Lal Taki, Baraskar Colony,
House No.4, Ahmednagar.

.. Respondent.

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Mr. V.S. Bedre, Advocate, for the petitioner.

Mr. P.V. Barde, Advocate, for the respondent.

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CORAM : RAVINDRA V. GHUGE, J.

DATE : 20TH FEBRUARY 2017

ORAL JUDGMENT :

01. Rule. Rule is made returnable forthwith and heard finally by the consent of the parties.

02. The petitioner is aggrieved by the impugned judgment dated 01.03.2016, delivered by the first Labour Court, Ahmednagar, by which Application I.D.A. No. 19/2012 filed by the respondent - workman claiming unpaid wages under Section 33C(2) of the Industrial Disputes Act, 1947 has been partly

allowed. The petitioner is directed to pay Rs. 3,74,178/- along with interest at the rate of 12 % from the date of the Labour Court's order till realization.

03. Shri Bedre, learned Advocate appearing for the petitioner - Corporation has strenuously criticized the impugned judgment. He submits that though Complaint (ULP) No. 01/2001 filed by the respondent was allowed by the Industrial Court, by judgment dated 15.06.2006 granting him fresh appointment within 02 months, the petitioner had challenged the said judgment in Writ Petition No. 938 of 2008 which was disposed of by this Court on 18.03.2009. He, therefore, submits that the pendency of the Writ Petition will not create any right in favour of the respondent and as the said petition of the Corporation has been dismissed, the judgment of the Industrial Court would be effective from the date of the judgment of this Court.

04. He further criticized the impugned judgment to the extent of grant of 12 % interest. He submits that even for long term investments in Fixed Deposit Receipts, the rate of interest would not be more than 08 %. The Labour Court has erroneously granted 12 % interest.

05. Mr. Bedre draws my attention to the 16 grounds formulated in the memo of the petition for assailing the impugned judgment of the Labour Court

and submits that the said judgment is rendered perverse, erroneous and deserves to be set aside.

06. Shri Barde, learned Advocate appearing on behalf of the sole respondent, submits that this petition is vexatious and deserves to be dismissed. The Industrial Court had granted 02 months' time to the petitioner - Corporation to issue a fresh appointment order to the respondent. The said order, therefore, was to be complied with on or before 16.08.2006. The failure of the petitioner in this Court and in complying with the order, will not give any advantage to the petitioner to deprive the respondent of the benefit of the order.

07. Shri Barde then indicates from the order dated 18.03.2009 delivered by this Court, by which Writ Petition No. 0938 of 2008 filed by the petitioner was rejected summarily. He submits that the pendency of the Writ Petition will not give any advantage to the petitioner. Taking into account that the father of the respondent was in the service of the petitioner, this Court by its order dated 18.03.2009, summarily rejected the Writ Petition of the petitioner and sustained the judgment of the Labour Court.

08. To the extent of the rate of interest is concerned, Shri Barde submits that being a Class-IV labour and being without employment, the Labour Court has considered grant of interest as a way of

compensating the respondent. Though the interest may appear to be more than long term Fixed Deposit Receipt, yet the Labour Court has granted the said interest to ensure that the hardships suffered by the respondent are compensated.

09. I have considered the submissions of the learned Advocates for the respective parties, as have been recorded above.

10. It hardly requires any debate that when the judgment of the Industrial Court has been sustained by this Court and has attained finality, the effect of the judgment will be from the date it was so intended to be brought into effect. The Industrial Court has granted 02 months' time to the petitioner. Computing 02 months from 16.06.2006, the petitioner was expected to comply with the directions of the Industrial Court on or before 16.08.2006. Pendency of the Writ Petition would not absolve the petitioner of its obligation. With the dismissal of the petitioner's Writ Petition No. 0938/2008, the petitioner is obliged to implement the judgment of the Industrial Court from 16.08.2006 (Considering that 15.08.2006 was a national holiday). I, therefore, do not find any perversity or error in the impugned judgment of the Labour Court to this extent.

11. I find that the Labour Court has calculated the unpaid salary of Rs. 3,74,178/- from 15.06.2006 till April, 2012. When admittedly the petitioner was

granted 02 months' time to appoint the respondent by issuing a fresh order, the petitioner's obligation would commence from 16.08.2006. The wages for the months of June and July, till 14.08.2006 would not be payable which is said to be about Rs. 09,760/-. Considering this aspect, the impugned order stands modified and the petitioner would be liable to pay an amount of Rs. 3,64,418/-.

12. To the extent of the interest of 12 % per annum is concerned, it cannot be ignored that no nationalized Bank would pay that interest even if the amount payable to the respondent was presumed to be invested in long term deposit. So also, it cannot be ignored that the petitioner is a public body and such interest has to be paid from the public exchequer.

13. Considering the position, I deem it proper to reduce the interest to 06 % per annum, to be paid to the petitioner on the amount of Rs. 3,64,418/- with effect from the date of the impugned judgment which is 01.03.2016 and I order accordingly.

14. This petition is, therefore, partly allowed and rule is made partly absolute in the above terms.

(Ravindra V. Ghuge)
JUDGE

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