

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

WRIT PETITION NO. 8066 OF 2013

KANTILAL RATANCHAND GANDHI LRS SURAJ KANTILAL GANDHI
VERSUS
MODERN FOUNDRY AND MACHINE WORKS LTD AND ANOTHER

...
Advocate for Petitioners : Shri Barde Parag Vijay.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st February, 2017

Per Court:

1 This petition has been dismissed as against Respondent No.2 on 23.11.2016. Despite service of court notice, none appears on behalf of Respondent No.1.

2 The Petitioner is aggrieved by the judgment of the Labour Court dated 22.10.2012 by which Application (IDA) No.11/2005 has been rejected.

3 Shri Barde, learned Advocate for the legal heirs of the original Petitioner/ Claimant, has strenuously criticized the impugned judgment. He has drawn my attention to the grounds raised in the petition as well as the claim put forth in the application under Section 33(C)(2) of the

Industrial Disputes Act, 1947.

4 It is trite law that Section 33(C)(2) provides for a remedy of recovery of legal dues from the Employer. Arithmetical calculations as well as certain connected issues based on the right vested in the employee, can also be looked into by the Labour Court under the said provision.

5 In the instant case, there was a lock-out in the factory from 20.10.1996. The deceased claimant attained the age of superannuation in 2003. He filed the application under Section 33(C)(2) in 2005 claiming unpaid wages for the period of lock-out from 20.10.1996 till 15.03.2003 when he superannuated.

6 The disputed issues before the Labour Court were as to whether, the deceased was not amongst the employees who were locked out by the employer, whether, he had offered himself for work and was refused work by the Employer, etc.. Such disputed issues cannot be considered by the Labour Court under Section 33(C)(2).

7 The Labour Court, in my view, rightly concluded in paragraphs 11 and 12 that if the claimant desires to establish the claim that he had offered himself for work, was refused work and the principle

of "no work no wages" is not applicable to him, he would have to take recourse to the remedy which provides for adjudication of such disputed issues.

8 Considering the above, I do not find that the impugned judgment could be termed as being perverse or erroneous. This Writ Petition being devoid of merit is, therefore, dismissed.

9 Needless to state, if the legal heirs of the claimant desire to raise an industrial dispute for seeking benefits in the light of the contentions of the deceased, they would be at liberty to do so.

kps

(RAVINDRA V. GHUGE, J.)