

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

WRIT PETITION NO.11503 OF 2016

The Grampanchayat Office, Nepti.
Through the Sarpanch,
Meera w/o Sanjay Japkar,
Age : 35 years, Occupation : Sarpanch,
R/o Nepti, Tq.Nagar,
District Ahmednagar.

...PETITIONER

-VERSUS-

1 Ramdas s/o Asaram Kalhapure,
Age : 45 years, Occupation : Service,
R/o Nepti, Tq.Nagar,
District Ahmednagar.

2 The Gramsevak,
Ujawala w/o Bhimrao Pawar,
Age : 35 years, Occupation : Service
working as a Gramsevak,
Grampanchayat Office, Nepti,
Tq. & Dist.Ahmednagar.

...RESPONDENTS

...
Advocate for Petitioner : Shri Bide Dnyaneshwar A.
Advocate for Respondent 1 : Shri P.V.Barde.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 20th January, 2017

Oral Judgment :

1 This matter was heard at length on 18.01.2017 and was
adjourned to this date only in view of the request of the Petitioner that an

affidavit would be tendered for complying with the order of recovery by making the payment of amounts to the Respondent in two installments.

2 It is conveyed to the Court today that the affidavit is not ready.

3 In the light of the above, I proceed to decide this petition.

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

5 The Petitioner is aggrieved by the judgment dated 17.03.2012 by which Application (IDA) No.2/2011 filed by Respondent No.1/ Workman has been allowed and an amount of Rs.2,98,304/- with interest at the rate of 12% per annum has been granted.

6 The learned Advocate for the Petitioner has strenuously tried to criticize the impugned judgment. It is contended that no preexisting right vests in the Respondent/workman for which the application under Section 33-C(2) of the Industrial Disputes Act, 1947 for recovery of amounts could be entertained by the Labour Court. Unless there is a preexisting right, no relief can be granted, much less the Labour Court

could have exercised jurisdiction under the said provision of law. It is further stated that there is no evidence before the Labour Court to accept the prayer of the Respondent and as such, the impugned judgment is erroneous and perverse.

7 Shri Barde, learned Advocate appearing on behalf of Respondent No.1/ Employee, submits that his entire claim before the Labour Court under Section 3-C(2) was based on the judgment of the Labour Court dated 24.10.2008 by which his Complaint (ULP) No.104/2003 was allowed. He was granted reinstatement with continuity in service with full back wages by the judgment dated 24.10.2008. His application for recovery of amount was filed on 25.01.2011.

8 He further submits that there had been a subsequent termination of the Respondent as well and the same has been set aside by yet another judgment of the Labour Court dated 17.03.2012 delivered in Complaint (ULP) No.5/2011 which was allowed partly granting reinstatement in service without continuity and full back wages.

9 I have considered the submissions of the learned Advocates as recorded hereinabove and I have gone through the petition paper book with their assistance.

10 The issue before the Labour Court was based on the judgment of the Labour Court dated 24.10.2008 by which the Respondent was granted reinstatement with continuity of service and full back wages from 23.06.2003. The right of the Respondent for back wages and continuity got crystallized as the revision petition filed by the Petitioner was admittedly dismissed by the Industrial Court for being delayed by about eight years. Writ Petition No.10266/2016 filed by the Petitioner assailing the order of the Labour Court as well as the Industrial Court, was dismissed. Consequentially, the judgment of the Labour Court dated 24.10.2008 attained finality.

11 In the above backdrop, the Labour Court was left merely to resort to mathematical calculations as regards the minimum rates of wages payable to the Respondent/ Employee and for the period from 23.06.2003 till 01.03.2009 when he was reinstated in employment. He was further not paid the wages from 01.03.2010 till 29.11.2010. The Respondent/ Employee had claimed an amount of Rs.3,22,254/-, out of which, Rs.23,950/- was paid to him. Naturally, the Labour Court considered the above position and concluded that the remainder amount of wages needs to be paid. It was established that the Petitioner had not paid the said amount and hence, the claim was granted to the extent of

Rs.2,98,304/-.

12 The Petitioner is further aggrieved by the interest at the rate of 12% per annum which is granted by the Labour Court. The strenuous contention of the Petitioner is that the interest at the rate of 12% pa is unheard of and cannot be granted. Simple interest could have been granted. 12% interest is an exorbitant interest granted.

13 Shri Barde has valiantly tried to defend the order to the extent of interest granted.

14 The Petitioner is a public body. The interest as was admissible for a long term deposits in any nationalized bank, should have been granted by the Labour Court. As in 2012, normal rate of interest for long term deposits with nationalized banks was about 8% pa.

15 As such, this Writ Petition is partly allowed only to the extent of reducing the interest granted from 12% pa to 8% pa.

16 The Petitioner then points out that the attachment orders dated 10.06.2016, 13.07.2016 and 19.07.2016 have been passed by the Tahasildar, Ahmednagar for realizing the amounts granted by the Labour

Court.

17 Shri Barde submits that the amount of Rs.2,98,304/- with interest at the rate of 8% from 2012 would be roughly an amount of Rs.3,46,000/-. He submits that if the said amount is deposited with the Second Labour Court, Ahmednagar, the attachment orders could be set aside and he would withdraw the said amount.

18 Considering the above, the Petitioner is at liberty to deposit the said amount of Rs.3,46,000/- (Rupees Three Lac Forty Six Thousand) before the Second Labour Court, Ahmednagar by way of a Demand Draft or Banker's Cheque and produce evidence of depositing the said amount before the Tahasildar, Ahmednagar. Only then the attachment orders dated 10.06.2016, 13.07.2016 and 19.07.2016 shall be withdrawn as having been satisfied and the Tahasildar may, thereafter, release the Bank accounts held by the Petitioners with the Oriental Bank of Commerce, Ahmednagar, the Bank of Maharashtra, Ahmednagar and the Ahmednagar District Central Cooperative Bank Limited.

19 Rule is made partly absolute in the above terms.