

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1151/2017

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Yuvraj Gharal i/b. Vijay Killedar for the petitioner

CORAM : K. K. TATED, J.
DATE : APRIL 17, 2017

P.C.:

1. Heard. By this petition under Article 226 and 227 of the Constitution of India the Petitioner challenges the judgment dated 23.02.2015 passed by the Member, Industrial Court, Solapur in Misc. Recovery (ULP) No.3/2014 directing the petitioner to pay sum of Rs.3,89,890/- with interest to the respondent. The Industrial Court also directed to issue recovery certificate u/s. 50 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 to the Collector, Solapur for recovery of Rs.3,89,890/- with interest.

2. In the present proceedings, the respondent had filed complaint (ULP) No.4/2009 u/s. 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 under Schedule IV Item 9 and 10, which was

decided by the Industrial Court Solapur on its own merits. The operative portion of the said judgment reads thus:

- “i. The complaint is partly allowed.*
- ii. It is hereby held and declared that the respondents have engaged in the unfair labour practices under Schedule IV, Item Nos.9 & 10 of the MRTU and PULP Act, 1971 and the respondents are directed to cease and desist from engaging in such unfair labour practices, forthwith.*
- iii. The respondents are hereby directed to pay all the service cum retiring benefits of deceased complainant No.1 Nandkumar to his wife Jayashri as per rules.*
- iv. The respondents are further directed to pay all the retiring benefits excluding the gratuity amount to the complainant No.2 Mahammad Saleem.*
- v. The respondents are also directed to comply with this order within 3 (three) months from the date of this order.*
- vi. In view of circumstances, parties to bear their own costs.”*

3. As the petitioner had failed and neglected to comply with the said judgment, the respondent filed Misc. Recovery (ULP) No.3/2014. The Industrial Court, considering the fact that the petitioner had failed and neglected to comply with the judgment dated 28.04.2014, directed the petitioner to pay sum of Rs.3,89,890/- after

adjusting the amount already paid.

4. The learned counsel for the petitioner submits that at the time of passing the impugned order, the Industrial Court failed to consider that the petitioner had paid Rs.9,723/-, Rs.1,18,054/-, Rs.13,704/- and Rs.27,408/- during the period from 03.10.2009 to 21.09.2009. Hence, the impugned order is liable to be set aside.

5. It is to be noted that, the Industrial Court held that the respondent claimants were entitled to Rs.3,89,890/- as retirement dues with interest @ 10% p.a. from the date of the order.

6. The Industrial Court, after considering the amount which was already paid by the petitioner, pass the impugned order.

7. Considering the fact that the Industrial Court allowed the respondent's recovery application on the basis of unchallenged judgment dated 28.04.2014 in complaint (ULP) No.4/2009, I do not find any merits in the Writ Petition . Same stands rejected.

JUDGE