

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5353 OF 2016

(STATE OF MAH. THR. IRRIGATION DEPTT. & 3 OTH....VS.. KUNDLIK BHIWAJI SONWANE)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.A.Madiwale, A.G.P. for Petitioners.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 20, 2017.

Heard.

The petitioners/employer have challenged the order passed by the Industrial Court allowing the complaint filed by the employee under Section 28 read with Items 5, 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. During pendency of the complaint the employee died and his widow is brought on record.

The Industrial Court has held that the employer has indulged in unfair labour practice by not giving benefits of CRTE. as per the Kalelkar Award inspite of directions of the Court. The Industrial Court has directed that the difference of wages, gratuity and family pension be paid to the legal representatives of the deceased employee.

The relevant considerations are in paragraph Nos. 15 and 16 of the impugned order as follows :

“15. After considering the oral as well as documentary evidence it is made clear that the deceased complainant was working with the

respondents since 1975 as Light Unskilled Labour and had completed five years continuous service in the year 1980. His service came to be terminated in the year 1988. Therefore, deceased complainant filed Complaint ULP No. 182/88 which was decided by judgment dt. 30-9-1991 and respondent was directed by the aforesaid judgment to reinstate the deceased complainant. Being aggrieved by the judgment passed by the Labour Court Bhandara the Revision ULP No. 04/1992 was filed before the Industrial Court, Nagpur which was transferred to this Court. However, during the pendency of the aforesaid revision deceased complainant expired on 8-9-2002. The aforesaid revision was settled between the parties. The copy of settlement pursis is placed on record at Ex.16. The respondent shown willingness to give the benefits of CRTE and therefore the settlement pursis filed by the respondents. The Industrial Court Bhandara disposed off the Revisions ULP No. 01/92 to 05/92 by way of common order on the basis of settlement pursis and thereby directed the respondents to fulfill the assurance given in the pursis. There is no dispute about these facts between the parties.

16. It is also a fact that respondents as per settlement pursis gave benefits to other employees but the complainant being expired no benefits are given as per the settlement pursis. From the settlement pursis it is made clear that all the complainants those who were involved in Revision ULP No. 01/92 to 05/92 completed five years service as per the requirement of Kalelkar award, the respondent agreed to give the benefits of CRTE to all the employees including deceased complainant. The respondents by not giving benefits to this complainant committed an unfair labour practice under Items 5 & 9 of Schedule IV of the MRTU & PULP Act. By refusing to give benefits of CRTE and not implementing the settlement and direction of the Industrial Court and by not paying the arrears of wages amount, gratuity and family pension the respondents have engaged in unfair labour practice as envisaged under Items 5 & 9 of Schedule IV of the MRTU &

PULP Act. Not providing the benefits, status and service condition of deemed CRTE employee it is not only breach of Kalelkar award but also violation of statutory provisions. Hence the legal heirs of the deceased complainant are entitled for the benefits as prayed in the complaint.”

After examining the documents placed on the record of the petition I find that the conclusions of the Industrial Court are based on proper appreciation of the material on record.

The learned A.G.P. has not been able to point out any infirmity or perversity in the conclusions of the Industrial Court. I see no reason to interfere with the impugned order.

The petition is **dismissed**. No costs.

JUDGE

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