

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 7706 OF 2018
IN WP/11896/2014
WITH CA/13468/2016

SAMADHAN SADASHIV INGLE
VERSUS
M/S DURAWARE PVT. LTD AURANGABAD

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Advocate for Applicant : Shri Prabhakaran T.K.
h/f Shri Telangre G.S.
Advocate for Respondent : Shri Golewar V.P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 24, 2018
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PER COURT :-

1. The applicant prays for withdrawal of the amount deposited in this Court by the petitioner. There is no dispute that the applicant has been reinstated in service pursuant to the award and in view of the order of this Court dated 20.4.2015.
2. The record reveals that the impugned award grants 75% backwages to the applicant. This Court had directed depositing of 50% of the backwages.
3. Learned Advocate for the petitioner / management strenuously contends that the respondent was a Security Guard and the management was not the actual employer. He was engaged through a Contractor M/s Shakti Bhavati Security Sanstha and subsequently M/s

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Kohinoor Enterprises which was a proprietary firm and the applicant worker was the sole proprietor of the said firm.

4. He, therefore, would not become an employee of the petitioner and there was no employer-employee relationship between the parties. He, however, submits that pursuant to the order of this Court in the Writ Petition, dated 20.4.2015, the applicant had been reinstated in service and the 50% amount towards backwages have also been deposited. Besides the above, learned Advocate for the applicant submits that if the management pays 50% of the actual backwages which is open to negotiations, he would waive the 25% of the backwages granted by the Labour Court and this litigation can be brought to an end. Learned counsel for the petitioner submits that he would take instructions.

5. Considering the above, this civil application is allowed and the applicant is permitted to withdraw an amount of Rs.1,00,000/- by tendering an affidavit / undertaking that if he suffers an adverse orders in the Writ Petition, he will redeposit the said amount in this Court within six weeks. While withdrawing the amount, the applicant shall tender a recent photograph, the recent address proof and his Election Commission's Voter Id card.

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6. Rest of the amount with accrued interest shall be invested with the Registry in a nationalized bank in fixed deposit receipt, initially for the period of three year. The litigating sides are at liberty to request for an early hearing in the Writ Petition in June 2019.

7. Civil Application No.13468 of 2016, by which the said applicant / worker prays for a direction to the management to deposit an amount of Rs.7,87,220/-, would be considered along with the writ petition.

Ajay
Kishanrao
Losarwar
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signed by
Ajay
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(RAVINDRA V. GHUGE, J.)

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