

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8408 OF 2018

SYED KASIM SYED ACHHAN AND OTHERS
VERSUS
SHIVKUMAR DAGA AND OTHERS

...

Advocate for Petitioners : Smt. Manjushri Shendage-Narwade
Advocate for Respondents : Smt. Rajshree Gadgil

...

CORAM : RAVINDRA V. GHUGE, J.
Dated: October 11, 2018

...

PER COURT :-

1 The petitioners are aggrieved by the judgment and order dated 23.4.2018, by which, the Labour Court has rejected Application (IDA) No. 40 of 1989.

2 I have heard the strenuous submissions of the learned Advocates for the petitioners on 3.10.2018 and today. With her assistance I have gone through the petition paper book and have perused the documents tendered across the Bar today, which are marked as Exhibit "X" collectively (8 Pages) for identification.

3 Syed Kasim claimed to be an employee of the Rai Bahadur Badridas Ginning and Pressing Factory and the respondents were the owners of the said factory. He claimed to have worked from 1920 till 13.9.1978 for a period of 58 years. It is unknown as to what was the

age of Syed Kasim when he allegedly joined the employment in 1920. With this claim for having worked for 58 years, he had filed an application under Section 33C(2) of the Industrial Disputes Act on 13.6.1989, when he claimed to be 90 years of age, meaning thereby that he was 21 years of age in 1920. The claim is for unpaid wages for the periods 1.4.1948 to 30.9.1978 as per the Minimum Wages Act, Bonus for the period 1965 to 1980, Gratuity for the entire period of service, Provident Fund accumulation, Over time wages since he worked for 12 hours a day and Wages for leave encashment of his annual leave.

4 Having made this claim for Rs.6,37,580/-, the applicants, who are the L.Rs. of deceased Syed Kasim, submitted a chart before the Labour Court calculating the unpaid amount. This claim over a period of 30 years from April 1948 to August 1978 is put forth after 11 years in 1989.

5 The respondent has taken a stand that Syed Kasim was not an employee of the respondent and they were not the owners of the Rai Bahadur Badridas Ginning and Pressing Factory. They are owners of M/s Sir Kasturchand Private Limited and they have no relation with the Rai Bahadur Badridas Ginning and Pressing Factory.

6 The record reveals that besides the word of mouth, there was no evidence before the Labour Court to conclude that Syed Kasim was the employee of these respondents or that these respondents were owners of Proprietors of the said factory.

7 In the light of the above, I do not find that the judgment of the Labour Court dated 23.4.2018, rejecting the application could be termed as being perverse or erroneous.

8 This petition being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

...

Ajay
Kishanrao
Losarwar

Digitally
signed by Ajay
Kishanrao
Losarwar
Date:
2018.10.12
10:38:46
+0530

akl/d