

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

WRIT PETITION NO. 12221 OF 2018

The General Manager
Osmanabad Janta Sahakari Bank Ltd
& another ... Petitioners

Versus

Pralhad s/o Kisan Chaudhari & another ... Respondents

Mr. A.N. Irpatgire, Advocate for the Petitioners.

Mr. S.B. Pulkundwar, AGP for Respondent no. 2.

Mr. A.V. Patil Indrale, Advocate for Respondent no. 1.

Coram : N.M. Jamdar, J.

Date : 4 December 2018.

Oral Order :

1. Heard learned counsel for the parties.
2. After hearing learned counsel for the parties, following order was passed on 19 November 2018 :

1. Petitioners have challenged order passed by the Industrial Court, Latur, dated 11 April 2018 under section 50 of the M.R.T.U.

And P.U.L.P. Act.

2. *Petitioners-employer contends that amount of ₹ 1,82,000/- withdrawn by respondent No. 1 has not been taken into consideration by the Industrial Court. As regards this submission, as rightly pointed out by the respondent that it has been taken into consideration which is evident from paragraph No. 18 of the impugned order. Therefore, there is no merit in this contention. As regards delay in filing application is concerned, it is pointed out by the respondent that after the learned Single Judge passed order dated 12 July 2013, application under section 50 of the M.R.T.U. And P.U.L.P. Act was filed on 15 March 2014 i.e. within one year. Therefore, there is no delay and grant of interest during that period is also justified. Apart from this position, the reply filed by petitioners discloses no particulars at all. The contention of petitioners that entire burden is on respondent-employee, is not correct, as an employer is in possession of all the record. Petitioners ought to have produced the record of disputed calculations of the respondent, which has not been done. In the circumstances, considering the scope of Section 50, interference in the impugned order is not warranted.*

3. *Petitioners have, however, raised one ground i.e. ground of bonus. According to*

petitioners, same was not claimed nor granted by the Court and grant of bonus is not automatic and it depends upon performance of the employee. Learned Counsel for respondent asserts otherwise and seeks time to produce on record order passed by the Industrial Court and the complaint filed by the petitioners.

4. In view of this position, the dispute now centres only regarding grant of bonus amount.

5. Stand over to 27 November 2018.

3. Thereafter, the petition was again heard on 27 November 2018 and following order was passed :

After arguing the matter for some time, the learned counsel for the parties seek time to consider whether the dispute can be amicably resolved.

2. Stand over to 4 December 2018 under the caption 'for direction'.

3. In the meanwhile, the petitioner will deposit the amount as per the impugned order and after deposit of the amount, there shall be stay to the execution of the impugned order.

4. Learned counsel for respondent no. 1, upon instructions

from respondent no. 1, who is stated to be present in the Court, states that respondent no. 1 will not claim the bonus amount which has been awarded by the impugned order.

5. Learned counsel for petitioners states that this was the sole argument to be made in this petition and since now, respondent no. 1 has made a statement that he will not claim the bonus amount, nothing further survives for adjudication in this petition.

6. In view of this consensus between the parties, the petition is disposed of with the following order :

i) The impugned order passed by the Industrial Court dated 11 April 2018 is confirmed minus the amount of bonus i.e. ₹ 58,274/- claimed by respondent no. 1. Therefore, the remaining amount payable to respondent no. 1 under the impugned order will be ₹ 9,53,705/-.

ii) Respondent no. 1 is permitted to withdraw ₹ 9,53,705/- from the amount which has been deposited in this Court, excluding the amount of bonus.

iii) The petitioner is permitted to withdraw

the remaining amount of ₹ 58,274/-.

7. Writ petition is disposed of in above terms.

N.M. Jamdar, J.