

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.11178 OF 2018
(The Chief Executive Officer and another Vs. Janardhan Appasaheb
Barde)

IN

REVIEW APPLICATION STAMP NO.25431 OF 2018

WITH

CIVIL APPLICATION STAMP NO.25656 OF 2018
IN REVIEW APPLICATION STAMP NO.25655 OF 2018

WITH

CIVIL APPLICATION STAMP NO.25664 OF 2018
IN REVIEW APPLICATION STAMP NO.25662 OF 2018

WITH

CIVIL APPLICATION STAMP NO.25651 OF 2018
IN REVIEW APPLICATION STAMP NO.25650 OF 2018

WITH

CIVIL APPLICATION STAMP NO.25659 OF 2018
IN REVIEW APPLICATION STAMP NO.25658 OF 2018

WITH

CIVIL APPLICATION STAMP NO.25649 OF 2018
IN REVIEW APPLICATION STAMP NO.25648 OF 2018

WITH

CIVIL APPLICATION STAMP NO.25647 OF 2018
IN REVIEW APPLICATION STAMP NO.25646 OF 2018

WITH

CIVIL APPLICATION STAMP NO.25653 OF 2018
IN REVIEW APPLICATION STAMP NO.25652 OF 2018

Mr.S.T.Shelke, Advocate for the applicants.

Ms.M.D.Thube-Mhase, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 07/09/2018

PER COURT :

1. By consent of the parties, those identical matters which were not on board, have been taken on board.

2. For the reasons stated in the applications for condonation of delay, these applications are allowed and the review applications are heard by the consent of the parties.

3. Learned Advocate for the review applicant/Zilla Parishad has strenuously canvassed several issues as regards the earlier rounds of litigation and the proceedings between the parties. His submissions can be summarized as under :-

[a] The proceedings initiated by the workers under Section 33(C)(2) of the I.D.Act, 1947 were not maintainable as several disputed questions were raised.

[b] Exorbitant claims were put forth.

[c] The workers failed to prove that the amounts claimed by them were unpaid legal dues.

[d] The Labour Court did not consider the evidence properly.

[e] The documents brought on record in the review application were inadvertently not filed by the Zilla Parishad before the Labour Court or even in the writ petitions.

[f] By the judgment of the Hon'ble Apex Court in Nityanand M.Joshi and another Vs. The Life Insurance Corporation of India and others [AIR 1970 SC 209], all benefits not covered by a settlement or agreement or award can only be sought before the Labour Court u/s 33(C)(2) of the I.D.Act.

[g] The financial condition of Zilla Parishad is extremely weak and it will not be able to pay the dues calculated by the

Labour Court.

4. Learned Advocate appearing on behalf of the workers submits as under :-

[a] The Industrial Court had earlier dealt with a similar situation in Complaint (ULP) No.141/1987 and had allowed the complaint by judgment dated 04/04/1990 mandating the Zilla Parishad to calculate the pay scales of the workers, allowances, bonus and other monetary benefits and make such payments.

[b] The Zilla Parishad signed a document alongwith the said workers on 27/01/1992 agreeing to pay certain monetary benefits. The said document was not a settlement as understood u/s 2(p) r/w 18 of the I.D.Act.

[c] By order dated 30/04/2009 in WP No.3162/2008, the statement of the Chief Controller-cum-Accountant and Finance Officer, Zilla Parishad, through a communication, was accepted that these workers are entitled to the benefits of the pay scales.

[d] This Court has dealt with all these contentions in the writ petitions now raised by the Zilla Parishad in these review applications, especially in paragraph Nos.9 to 14 and the review applications cannot be considered as if this Court is rehearing the writ petition.

5. In my view, it requires no debate that, considering the law laid down in Lily Thomas Vs. Union of India, [AIR 2000 SC 1650], a review application cannot be entertained as if the Court is re-hearing the entire writ petition.

6. The contentions of the review applicants have been considered in details from paragraph Nos.4 till 14 in the judgment dated 27/03/2018 which is sought to be reviewed. All the contentions were taken into account, the evidence recorded before the Labour Court was considered threadbare and all admissions supporting the case of these workers recorded in the cross examination of the witness of the Zilla Parishad, were also considered in paragraph Nos. 9 to 13 in the said judgment.

7. The Zilla Parishad now intends to cure all the deficiencies that they may have left in the proceedings before the Labour Court. Considering the submissions of the Zilla Parishad, it appears that the Zilla Parishad desires to bring on record documents with regard to its weak financial condition and dispute the amounts which were required to be computed u/s 33(C)(2). Practically, a re-hearing of the proceedings before the Labour Court is sought.

8. I find that the witness of the Zilla Parishad has deposed on the basis of the record and has admitted that these workers were entitled to leaves, earned leaves, commuted leaves, difference in the amounts as per pay fixation and the pay scales that were made applicable to

these workers. With such relevant pieces of evidence, I do not find that the Zilla Parishad can make out any error on the face of the order passed by this Court.

9. In view of the above, these review applications are devoid of merit and are therefore rejected.

(Ravindra V.Ghuge, J.)

Kranti
Hansraj
Shekatkar

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