

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11252 OF 2018
(Raghunath s/o Vajinath Kamble Vs. The Managing Director)

Mr.M.D.Shinde, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 09/10/2018

PER COURT :

1. The petitioner is aggrieved by the Order dated 11/06/2018 passed by the Industrial Court, Latur, by which Misc.Recovery Application No.5/2017 has been dismissed.

2. I have heard the strenuous submissions of the learned Advocate for the petitioner and have gone through the petition paper book with his assistance.

3. I find that the petitioner's claim is based on a judgment of the Industrial Court dated 09/10/2003 which is effectively a single sentence judgment in Complaint (ULP) No.35/1999. The entire judgment reads thus :-

“ The complainant has filed this complaint under Items 6 and 9 of Schedule IV of the MRTU and PULP Act (In short 'the

Act'). The respondent is duly served but the respondent has failed to appear in this matter. Therefore the complainant is directed to file affidavit in support of Exh.U-1. Accordingly the affidavit Exh.U-6 is filed in support of Exh,U-1. The contents of affidavit have gone unchallenged. Hence the order :-

O R D E R

- I. The complaint is allowed.*
- II. It is declared that the respondent has engaged in unfair labour practices under Item-6 and 9 of Schedule IV of the Act.*
- III. The respondent is directed to cease and desist such unfair labour practice hence-forth.*
- IV. The respondent is directed to make the complainant permanent w.e.f. 1.3.1999 and pay him all the consequential benefits arising out of permanency.*
- V. The respondent is further directed to pay the difference of amount arising out of permanency as account-Assistant.*
- VI. No order as to costs."*

4. The abovesaid judgment is glaring and requires no debate. Nevertheless, since it was ex-parte, I wonder whether the respondent is aware of the same, which is still unchallenged. The petitioner, therefore, preferred the Misc.Recovery Application u/s 50 of the MRTU and PULP Act, 1971 which prescribes a limitation of only 1 year for seeking recovery of money unpaid by an employer. Though the respondent has caused an appearance through an Advocate, their non-participation led to the passing of the ex-parte judgment.

5. Considering the bar of limitation of one year u/s 50, the Industrial Court relied upon the judgments cited and concluded that the proceedings were barred by limitation.

6. I find that an application u/s 50 can be entertained even after the expiry of one year period of limitation if sufficient grounds are set out. I do not find such grounds set out in the application which would convince the Court that the period of 12 years has been sufficiently explained. The only explanation set out in the application is that because the Assistant Accountant did not pay the difference of wages, that the delay of 12 years could be condoned.

7. In view of the above, I do not find any merit in this petition and the same is, therefore, dismissed. Needless to state, considering the provisions of the Industrial Disputes Act, 1947, the petitioner, if so advised, may take recourse to a remedy as would be permitted in Law.

(Ravindra V.Ghuge, J.)