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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4460 OF 2017

Shri. Hari Mahadu Thorve

...Petitioner

vs

M/s. Metal Arts

Through its Partners & Anr.

...Respondents

.....

Mr. Abhijeet A. Desai, for the Petitioner.

Mr. Anand R. Pai, a/w. Mr. A.K. Gopalan, i/b. Haresh Mehta & Co., for the Respondents.

.....

CORAM : S.C. GUPTE, J.

DATED: AUGUST 3, 2018

P.C. :

. Heard learned Counsel for the parties.

2. This writ petition challenges an order passed by the Labour Court at Pune in a complaint made to it under Section 48 of the MRTU & PULP Act for an order of penalty on account of the Respondents' failure to comply with the order passed by the Court in a complaint of unfair labour practice. The order *inter alia* required the Respondents to pay wages to the Petitioner (original complainant) equal to wages paid to its employee F.B. Wichke from the date of filing of the complaint. It is the case of the Petitioner that despite this order, wages equal to F.B. Wichke were not paid to him by the Respondents. The Respondents did pay a sum of Rs.1,92,456.57 (by a cheque of Rs.1,33,846.42 after deduction).

The Petitioner's grievance in the present petition is that this amount is not in accordance with what was paid to F.B. Wichke. The other grievance is that the difference of wages was to be paid within two months. The amount is paid after expiry of two months. The Petitioner's application under Section 48 on this basis was rejected by the Labour Court at Pune acquitting the Respondents accused under Section 255(1) of Code of Criminal Procedure for the offences punishable under Section 48(1) of the MRTU & PULP Act and the Respondents were discharged and set at liberty. The Petitioner carried the appeal before the Industrial Court at Pune. The Industrial Court, in its impugned order passed under Section 44, dismissed this appeal. These orders are challenged in the present petition.

3. At the outset, it is clear from the orders of the Court below that the Petitioner was duly paid a sum of Rs.1,92,456.57. There is nothing to show that this amount was not in accordance with what was payable having regard to wages paid to Mr. F.B. Wichke. Besides, that was really not the grievance before the Court. The Industrial Court in its impugned order clearly records that the only grievance of the Petitioner (Appellant before the Court) was that the amount was not paid within two months. The Court noted that in the earlier application filed under Section 33-C(2) of the Industrial Disputes Act by the Petitioner for recovery of dues in accordance with the order passed in his original complaint, the Petitioner had clearly admitted that he had received difference of wages and on that basis, the application was dismissed by the Labour Court. In the premises, the Court held that there was no merit in the case of breach of the original order for payment of difference

of wages passed by the Industrial Court. No fault can be found with the impugned orders of the Court below. Both courts below have correctly appreciated the facts of the case and applied the correct principles of law to such facts. There is no merit in the application alleging contempt of the Court. There is no failure to comply with the order of the Industrial Court on the part of the Respondents. The petition is, in the premises, dismissed.

Smita
Johnson
Gonsalves

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signed by
Smita Johnson
Gonsalves
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(S.C. GUPTE, J.)