

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4347 OF 2001

Cravetex Ltd.

...Petitioner

Vs.

Kalu Narayan Shelar & Ors.

...Respondents

WITH

WRIT PETITION NO. 4356 OF 2001

Cravetex Ltd.

...Petitioner

Vs.

Manikbai Anand Thakur, widow of
Anant Shankar Thakur & Ors.

...Respondents

Mr.V.P. Vaidya for Petitioner.
None for Respondents.

CORAM : S.C. GUPTE, J.

DATE : 14 JUNE 2018

P.C. :

Heard learned Counsel for the Petitioner.

2 These two petitions are being disposed of by this common order.

3 The Petitioner was running a textile mill. Both Respondents herein were working with the mill in its staff department. They were absent for about three or four months. As a result, their names were struck off the muster-roll as per standing orders applicable to the mills. The Respondents

sent letters of approach through their advocates and thereafter initiated proceedings under Section 42(2) read with Section 78 of the Bombay Industrial Relations Act, 1946. The Labour Court, by its order dated 29 February 1996, directed reinstatement of the Respondents with full backwages and continuity of service. This order was challenged by the Petitioner in appeals filed under Section 84 of the Act before the Industrial Court at Thane. The Industrial Court, by its order dated 25 September 2000, rejected the appeals. Being aggrieved, these two petitions have been filed by the Petitioner. The Petitioner's case in these petitions is that the Petitioner had declared closure of its undertaking after following due process. Pending the hearing and final disposal of the petitions, as a condition of stay of the impugned orders of the courts below, this court directed the Petitioner to deposit the entire backwages of the Respondents together with closure compensation applicable in their case as of 18 October 1983 in court. The Petitioner claims to have accordingly deposited the entire amount of backwages and compensation in court.

4 The record of the case indicates that for the last many dates, none has appeared on behalf of the Respondents. It appears that one of the Respondents, namely, Anand Shankar Thakur, died sometime in 1996. His widow has been brought on record in the petition. Learned Counsel for the Petitioner informs the court that even the other Respondent, namely, Kalu Narayan Shelar, appears to have died having regard to the postal endorsement on one of the notices addressed to him by the Petitioner. There is no information about any of his legal representatives.

5 Since the Petitioner's undertaking has been lawfully closed with effect from 18 October 1983, the only relief that could possibly be

given to the Respondents is award of backwages with effect from the dates when their names were struck-off from the muster-roll together with closure compensation payable to them on the same lines as the others of the Petitioner's workmen similarly placed. The Petitioner claims to have deposited the entire amount of such backwages and compensation in court. In the event it being found that there is any deficit in the amounts payable, learned Counsel for the Petitioner undertakes to the court, on instructions from his client, to make good such deficit. In the premises, and considering that neither the office nor the Petitioner has been able to access the Respondents or their legal representatives over the last more than one year and even the Advocate appearing for the Respondents has been unavailable, these two petitions are being disposed of in terms of the following order :

(I) The impugned orders of reinstatement passed by the Labour Court and the Industrial Court are quashed and set aside and substituted by the following order :

(a) The Respondents in both petitions, namely, Writ Petition Nos.4347 of 2001 and 4356 of 2001, shall be entitled to the entire backwages from the dates of their respective terminations and till 10 December 1983 on the basis of continuous service and also closure compensation payable under Section 25-FFF of the Industrial Disputes Act, 1947 in accordance with the closure notice dated 10 December 1983.

(b) These amounts shall be payable to the legal heirs and representatives of the Respondents.

(c) The Registry will permit withdrawal of the amounts deposited by the Petitioner in the respective petitions by the Respondents or their legal representatives upon production of proof of their entitlement as legal representatives of the Respondents.

(d) Liberty to the Respondents and their heirs and legal representatives to apply to the court in case the quantum of backwages and closure compensation deposited by the Petitioner in court is found to be deficient having regard to the number of years of continuous service and provisions of Section 25-FFF of the Industrial Disputes Act, 1947 and the closure notice dated 10 December 1983. The Petitioner undertakes to pay such deficient amount, as may be ordered by the court, to the Respondents/their heirs and legal representatives.

(e) The Registry shall communicate this order to the Advocate of the Respondents as well as to the Respondents/their heirs and legal representatives at the last known address reflected in the proceedings.

(f) This order shall also be communicated to the Respondents/their heirs and legal representatives through publication in two Marathi newspapers circulating in Dombivli.

(g) The amount deposited in court by the Petitioner together with accrued interest shall be retained/continued to be retained in Fixed Deposits for a period of one year from today. In case the Respondents/their heirs and legal representatives do not apply to the Registry for withdrawal of the amounts in this period of one year, the Petitioner will be entitled to take away the amounts with accrued interest as on the date of

such application against its undertaking to pay the amount to the Respondents/their heirs and legal representatives, as may be demanded by them in accordance with this order in future.

6 Both petitions are disposed of.

(S.C. GUPTE, J.)