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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2797 OF 2017

Sheshu Govind Poojari

... Petitioner

vs.

Topaz Anti Pest Services Pvt. Ltd. & Anrs.

... Respondents

Mr. Shailesh K. More for the Petitioner.

Mr. Prashant C. Pavaskar for the Respondent.

CORAM : A.K. MENON, J.

DATE : 13th MARCH, 2018

P. C.

1. By this Writ petition the petitioner seeks to challenge an order dated 20th April, 2017 passed in Application (IDA) NO. 22 of 2012 by which the 8th Labour Court rejected an application claiming minimum wages for the period 1983 to 2011. Vide Exhibit C the petitioner submitted a calculation of difference of wages payable to him. The Labour Court proceeded hear the application and held against the petitioner on the basis that the year wise calculation of minimum wages was not supported by any oral or documentary evidence.

2. Mr. More, learned Advocate for the petitioner submitted that this finding was perverse inasmuch as there is a express admission by the witness of respondent company to the effect that the difference in wage amounted to Rs.2500/-. In support of his contention Mr. More also relied upon written arguments filed before

the Labour Court wherein it has sought to rely upon Exhibit U-8, U-9 and U-10 filed by the petitioner on 28th December, 2012 and further documents filed on 4th March, 2016 showing chart of revised minimum wages. He has annexed copies of the application and annexures thereto at Exhibit – I to this petition. These enclosures disclose the minimum wage applicable to the State of Maharashtra with effect from 1st July, 2011 and not for the period 1983 or 1988-2011.

3. Mr. More submitted that in view of the admission, the Labour court was bound to consider the application and hold in favour of the petitioner. However, in the course of his submission Mr. More reiterated that the witness deposing on behalf of the respondent had no authority to so depose. He relied upon cross examination of witness wherein the witness had admitted he had no authority letter to depose and that he was not a director of the company at the material time. When faced with the fact that affidavit in reply has been filed by the same person who had deposed in the Labour Court and which discloses that he is presently director of the company, it is sought to be disputed. In view of the fact that the petitioner had challenged authority of the deponent it is not understood on what basis he seeks to take advantage of the statement in the cross examination which reads as follows :

“It is true to say that, there was difference of an amount of Rs.2500/- towards minimum wages determined by the Government and the payment made by the opponents to its employees.”

Since it the case of the petitioner that witness concerned had no authority to depose there was no question of the so called admission being taken into consideration.

The impugned order has proceeded on the basis of the pleadings. The pleading did not support the case of the petitioner as contained in the written argument or as canvassed before this Court. Although Mr. More had relied upon annexures to the written argument these are extracts without any disclosed source or authentication and being for the period 1st July, 1997 onwards till 2011. As far as Special allowances are concerned the impugned order has in no uncertain terms stated that the calculation of arrears from 1988 to 2011 has not been supported by any evidence.

4. Mr. More has not been able to satisfy this Court that the relevant documents were on record. In the circumstances, I do not find any reason to interfere with the impugned order in the Writ Jurisdiction of this Court. Accordingly, I pass the following order :

- (i) Writ Petition is dismissed.
- (ii) No order as to costs.

(A.K. MENON, J.)