

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

912 WRIT PETITION NO.5604 OF 2019

BABANRAO ACHUTRAO KULKARNI
VERSUS
JAIBHAWANI SAHKARI SAKHAR KARKHANA LTD

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Advocate for Petitioner : Shri Indani U.M. h/f Shri Indani M. S.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: August 06, 2019

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PER COURT :-

1. The petitioner is aggrieved by the impugned order dated 7.6.2018, delivered by the Industrial Court, by which, application Exhibit 6 filed by the petitioner, seeking amendment in the Complaint in Complaint (ULP) No.59 of 2016 has been rejected.

2. I have heard the learned Advocate for the petitioner for quite some time. I have gone through the grounds formulated in the memo of the petition.

3. The petitioner has preferred the ULP Complaint as regards disobedience of an award dated 20.10.2016, delivered by the Labour Court in Application (IDA) No.14 of 2012. The said complaint was restricted only to the extent of seeking execution of the award under item 9 of Schedule IV. By the proposed amendment, the petitioner desires to introduce a new cause of action for challenging the closure from July, 2004 to October, 2005 which occurred eleven years prior to the filing of

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the complaint. Several paragraphs are sought to be deleted and new paragraphs are sought to be introduced in the ULP Complaint. So also, the cause of action in the pending complaint is completely distinct as the petitioner has sought implementation of an award passed under Section 33-C(2) of the Industrial Disputes Act.

4. By the amendment, the petitioner desires that the closure be declared as illegal and the petitioner be awarded salary of 16 months for the period of closure. Moreover, raising of the said cause of action after 11 years, which is barred by the law of limitation under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act"), would not permit the petitioner to introduce a time barred cause of action through an amendment, in the light of the judgment of the Honourable Apex Court in the matter of Revajeetu Builders and Developers Vs. Narayanaswamy and sons [(2009) 10 SCC 84 = 2009 (8) MLJ 907- (SC)].

5. In view of the above, I find that the Industrial Court has rightly rejected the application for amendment. This petition being devoid of merits is dismissed.

(RAVINDRA V. GHUGE, J.)

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