

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

922 WRIT PETITION NO.2827 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
SURESH DATTU MUNGSE

**WITH
WRIT PETITION NO. 2828 OF 2019**

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
INDUBAI TUKARAM THORAT

**WITH
WRIT PETITION NO. 2829 OF 2019**

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
SHAIKH RAFIQ SHAIKH TAMIJODDIN

**WITH
WRIT PETITION NO. 2830 OF 2019**

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
YASHODABAI DATTU KSHIRSAGAR

**WITH
WRIT PETITION NO. 2831 OF 2019**

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
WAMAN BHIMRAO BIRADAR (DEAD) THROUGH L.R.

WITH
WRIT PETITION NO. 2832 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
PRABHAT PUNJAJI SALVE (DEAD) THROUGH L.R.

WITH
WRIT PETITION NO. 2833 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
SAYRABI RAZZAK BAIG

WITH
WRIT PETITION NO. 2834 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
CHANDRABHAN KISHAN PAGARE (DIED) THROUGH L.R.

WITH
WRIT PETITION NO. 2835 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
RAYBHAN CHANDRABHAN SHELKE

WITH
WRIT PETITION NO. 2836 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
BHAGWAN S/O APPAJI PANKHEDE

WITH

WRIT PETITION NO. 2837 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
RAMESH S/O DEVRAO THORAT

WITH

WRIT PETITION NO. 2838 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
KAMALBAI MUKUNDRAO MISAL

WITH

WRIT PETITION NO. 2839 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
DEEPAK SURAYAKANT SARAF

WITH

WRIT PETITION NO. 2840 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
ASHOK CHAMPATRAO KHADKE (DEAD) THROUGH L.R.

WITH

WRIT PETITION NO. 2841 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
SURESH DAMODAR GUND (DEAD) THROUGH L.R.

WITH

WRIT PETITION NO. 2842 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
GANGAHAR BAPURAO SATHE (DEAD) THROUGH L.R.

WITH
WRIT PETITION NO. 2843 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
BHANUDAS SARJERAO SAWANT (DEAD) THROUGH L.R.

WITH
WRIT PETITION NO. 2844 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
PRAKASH RAMBHAU KHARBE

WITH
WRIT PETITION NO. 2845 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
SAHEBRAO KHANDUJI TARANGE (DEAD) THROUGH L.R.

WITH
WRIT PETITION NO. 2846 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
ASRABAI W/O DAVRAO SUCHLADE

WITH
WRIT PETITION NO. 2847 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
SHESHRAO DHANSING ADE

WITH
WRIT PETITION NO. 2848 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
ASHOK ANANDRAO AHIRE

WITH
WRIT PETITION NO. 2849 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
SUSHILABAI BHAGWAN PANKHEDE

WITH
WRIT PETITION NO. 2850 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
SAYYED GANI SAYYED HUSSAIN

WITH
WRIT PETITION NO. 2851 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
BABAN MHASU SURADE

WITH
WRIT PETITION NO. 2852 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT

INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
TATTYARAO MATHU PAWAR

WITH
WRIT PETITION NO. 2853 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
SANJAY NATHUJI INGLE

WITH
WRIT PETITION NO. 2854 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
BHAURAO BHIKAJI SOLANKAR (DEAD) THROUGH L.R.

WITH
WRIT PETITION NO. 2855 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
ANJANABAI DADARAO KALE

WITH
WRIT PETITION NO. 2856 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
PANDURANG MURLIDHAR GUND

WITH
WRIT PETITION NO. 2857 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS

CHANDRAPRABHU BHIKAJI HUSE

WITH
WRIT PETITION NO. 2858 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
GUMPHABAI DAULAT KAKDE

WITH
WRIT PETITION NO. 2859 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
BHARAT ASARAM INGLE

WITH
WRIT PETITION NO. 2860 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
PRAYAGBAI W/O TUKARAM SAWANT

WITH
WRIT PETITION NO. 2861 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
INDUBAI RAMESH THORAT

WITH
WRIT PETITION NO. 2862 OF 2019

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
DATTATRAYA DYANDEV MUTEKAR

**WITH
WRIT PETITION NO. 2863 OF 2019**

THE DIRECTOR GENERAL WATER AND LAND MANAGEMENT
INSTITUTE (WALMI) KANCHANWADI, AURANGABAD
VERSUS
EKNATH PUNJARAM WAGHMODE

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Advocate for the Petitioner : Shri R. U. Bhutekar
Advocate for the Respondent : Shri P. K. Joshi and
Shri V. S. Khairnar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 26th JULY, 2019.

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PER COURT :

1. In all these petitions, the petitioner is aggrieved by the identical judgments delivered by the Labour Court, Aurangabad, on 23/04/2018, vide which, the individual applications filed by the respondent workers under Section 33C (2) of the Industrial Disputes Act, 1947, have been partly allowed. The Labour Court has concluded that the petitioner is liable to pay an amount of Rs. 1,00,000/- towards the unpaid wages to the workers for having worked on holidays in the period from 01/10/1995 till 01/12/2009. Interest at the rate of 10 % per annum on the unpaid amounts, from the date of the filing of the applications, have been granted.

2. The learned Advocate for the petitioner has strenuously criticized the impugned judgments and submits that an unsustainable view taken by the Labour Court should be quashed and set aside. The impugned judgments are against the tenets of law and deserve to be quashed and set aside.

3. He then submits that limitation was applicable to the proceedings filed by the respondents/original applicants. Since the applications were not filed within one year, the Labour Court should have dismissed all the applications on the point of limitation. It is undisputed that the applications were filed before the Labour Court on 03/03/2017.

4. The learned Advocate for the petitioner has also canvassed that in matters of such recoveries, a pre existing right has to be established. Moreover, exact details of the recovery amounts have to be mentioned. Vague pleadings should be met with an order of rejection. He also prays for waiver of the interest granted by the Labour Court.

5. I do not find that the submissions of the petitioner on the point of limitation could be sustained. Limitation of one year is prescribed only under Section 33C (1) of the ID Act when an employee has the option to approach the State Authorities which is the Deputy Commissioner (Labour) and seek a Revenue Recovery Certificate (RRC). *Insofar* as preferring an application for recovery of money due from an employer under Section 33C (2), the forum available is the Labour Court and no limitation is prescribed under Section 33C (2).

6. The learned Advocate for the respondents submits that the arguments of the petitioner are against the record. The petitioner has admitted the right of the workers to seek wages for having worked on holidays and national holidays. Though a circular was issued by the petitioner stating that if any such worker performs duties on a holiday or a national holiday, he would be entitled to a compensatory holiday, such compensatory holiday was not granted. These workers were forced to work on all holidays and they were seldom granted any compensatory holidays. So also, had any worker been

granted such a compensatory holiday, the petitioner could have produced the record before the Labour Court. Though a notice for production of documents was issued and the petitioner was directed to produce the documents, they have kept such documents away from the Court.

7. He submits that it was in the above circumstances that the Labour Court relied upon the admissions given by a Senior Officer witness of the petitioner in her cross-examination and granted Rs. 1,00,000/- to each of these workers.

8. I find from the record that the administrative Officer of the petitioner had addressed a communication dated 25/05/2012 to the Principal Secretary, (Water Resources Department), Government of Maharashtra, Mantralaya, Mumbai – 32, clearly indicating that there were about 155 temporary workers who had worked on all holidays in the period 01/10/1995 to 01/12/2009. They had sacrificed their holidays despite a right to weekly holidays and all State and National Holidays and they had performed their duties. The Regional Officers of the petitioner had conducted a detailed

assessment and had arrived at a statistical data which indicates that an amount of Rs. 150 Lakhs would be required for making such payment to about 155 temporary workers. It is clearly mentioned in the said communication that such workers had in fact worked for all holidays and it would be appropriate and justified to pay them the amounts towards such work.

9. I find from the record that the said witness Smt. Nidhi Gajbe had admitted in the cross-examination that the petitioner had approached the State Government for financial assistance of Rs. 150 Lakhs to be paid to each of such 155 workers. They had worked on holidays and had not been paid any wages for such work performed. The Department has the statistical details about the quantum of work performed by such temporaries. However, she is not able to produce the said record before the Court.

10. I find that this is one case in which it can be said that the witness Smt. Nidhi Narendra Gajbe has been a truthful witness. She has not suppressed facts from the Labour Court.

11. It is for unknown reasons as to why the petitioner which is the Water and Land Management Institute Aurangabad (Walmi), did not produce the relevant statistical data before the Labour Court so as to precisely assess the quantum of payments to be made to these workers, who are a part of the 155 temporary workers held to be eligible for such payment. As such, each of these workers would approximately receive an amount of Rs. 97,000/-. It is only that the Labour Court has granted Rs. 1,00,000/- per worker instead of Rs. 97,000/-. Out of the 155 workers, these are only 37 workers, who had come before the Court and all those workers, who have not been able to approach the Court, cannot be ignored. Their entitlement cannot be denied.

12. The Labour Court has granted 10 % interest from the date of the application till the amounts are actually paid. The learned Advocate for the petitioner submits that the rate of interest is on the higher side. The learned Advocate for the respondent workers submits that considering the hardships faced by the workers and the fact that they had to litigate and they even continue to litigate today, would warrant the

payment of interest at the rate of 10% p.a.

13. Considering the above, I do not find that the impugned judgment of the Labour Court granting the dues to these respondents could be termed as being perverse or erroneous. The only issue is, keeping in view those workers who have not approached the Court and must be awaiting similar payments, that I find that the amount of Rs. 1,00,000/- granted by the Labour Court could be reduced by Rs. 3,000/- so that a proportionate amount of Rs. 97,000/- could be paid to each of such 155 workers as the assessed payment for all is Rs. 150 Lakhs.

14. So also, the interest levied is reduced to 7 % p.a. from the date of the application until the amount is actually paid. If the amounts directed by this Court are not paid within a period of 12 weeks from today, the rate of interest shall be restored to 10 % and the amount of 3 % rise in interest shall be recovered from the salary of the Chief Engineer and Executive Director of the petitioner.

15. In view of the above, these petitions are partly allowed only to the extent of modifying the directions of the Labour Court in paragraph Nos. 2 and 3. The respondents shall be entitled for amounts of Rs. 97,000/- each alongwith interest @ 7 % p.a. The costs of Rs. 1,000/- shall also be paid by the petitioner. As noted above, all these amounts shall be paid within TWELVE WEEKS from today, failing which the above direction of enhancing the rate of interest shall become applicable and the rise in interest by 3 % per worker shall be recovered from the salary of the Chief Engineer and Executive Director of the petitioner.

16. In order to avoid multiplicity of litigation, I deem it proper to direct the petitioner to pay Rs. 97,000/- to each of the remaining 118 similarly situated workers, within TWELVE WEEKS from today. This would avoid further litigation, hardships and litigation costs of the petitioner as well as the said 118 workers.

(RAVINDRA V. GHUGE, J.)

shp/-