

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1793 OF 2017
IN
WRIT PETITION NO. 8434 OF 2013

Mr.Vikram Raghunath Patil .. Applicant

In the matter of

Maharashtra Agro Industrial Development
Corporation .. Petitioner

Vs.

Karveer Kamgar Sangh .. Respondent

ALONG WITH
CIVIL APPLICATION NO. 1794 OF 2017
IN
WRIT PETITION NO. 8434 OF 2013

Mr.Ashok Pandurang Kurane .. Applicant

In the matter of

Maharashtra Agro Industrial Development
Corporation .. Petitioner

Vs.

Karveer Kamgar Sangh .. Respondent

ALONG WITH
CIVIL APPLICATION NO. 1795 OF 2017
IN
WRIT PETITION NO. 8434 OF 2013

Mr.Suresh More .. Applicant

In the matter of

Maharashtra Agro Industrial Development
Corporation

.. Petitioner

Vs.

Karveer Kamgar Sangh

.. Respondent

**ALONG WITH
CIVIL APPLICATION NO. 1796 OF 2017
IN
WRIT PETITION NO. 8434 OF 2013**

Mr.Uddhav Mallu Shinde

.. Applicant

In the matter of

Maharashtra Agro Industrial Development
Corporation

.. Petitioner

Vs.

Karveer Kamgar Sangh

.. Respondent

Mr.M.S.Topkar, for the Applicant in all Applications.
Mr.Amit A.Karande, for Respondent.

CORAM : M.S.KARNIK, J.

DATE : 05th APRIL, 2019

P.C. :

. These applications are filed by the workmen for the
following reliefs.

“(a) the original Petitioner be directed to pay an amount of Rs.3,23,276/- as set out in Exhibit 'E' to this Application, as wages from 4.5.2013 till November 2016;

(b) the original Petitioner may further be directed to pay to Applicant the monthly wages equivalent to minimum wages applicable to the original Petitioner, month to month, every month from December 2016 till the disposal of the Writ Petition No. 8434 of 2013;

(c) any other just, equitable and further orders as deemed fit in the circumstances;

(d) costs of this application be awarded to Applicant.”

2. The employer – original petitioner challenged an award dated 04/05/2013 by filing Writ Petition in this Court. By award, the employer was directed to reinstate the workmen in the reference with continuity of service and 25% back-wages from the date of the termination of each worker. The award is dated 04/05/2013. The employer filed Writ Petition challenging the award in the year 2013. By order dated 15/09/2015 passed by this Court, the Petition was admitted and award was stayed. Pursuant to that, application is made for

payment of wages as contemplated under section 17-B of the Industrial Disputes Act, 1947 (for short 'the Act')

3. It is pointed out by learned Counsel that now the workmen have joined services with effect from 26/02/2019. The application under section 17-B of the Act was made praying for payment of wages for the period from 04/05/2013 till 25/02/2019 as workmen joined services with effect from 26/02/2019. Learned Counsel for the employer pointed out that the employer had asked the employees to join duties from July 2017 onwards. There is some dispute on this aspect.

4. Learned Counsel for the employee would submit that payment of wages under the provisions of section 17-B of the Act should be calculated on the basis of the minimum wages which are applicable from time to time. Learned Counsel for the employer would submit that the entitlement of the workmen under section 17-B of the Act is only as per last drawn wages at the time of termination of the services. This Court in

the case of **Kirloskar Pneumatic Kamgar Sangh Vs. Kirloskar Pneumatic Company Limited 2010(6) Bom.C.R. 292** has held that the employees are entitled to wages under section 17B from the date of award. Learned Counsel for the employer contended that the workmen are entitled for the last drawn wages from the date when the award is stayed. In view of the decision in **Kirloskar Pneumatic Kamgar Sangh (supra)**, the employees are entitled to 17-B wages from the date of Award.

5. The following are the decisions relied upon by the learned Counsel for the parties in support of their submissions

1. Regional Authority, Dena Bank Vs. Ghanshyam 2001 (II) CLR 901;
2. Kirloskar Pneumatic Kamgar Sangh Vs. Kirloskar Pneumatic Company Limited 2010(6) Bom.C.R. 292 ;
3. Anwar Hussain Satar & ors. Vs. Gujarat Maritime Board and ors., 2008(4) GLR 3365;
4. Raptakos Brett and Co. Ltd. Vs. Workmen of Raptakos Brett and Co. Ltd. 2008(2) Mh.L.J. 229 ;

5. Dena Bank Vs. Kiritikumar T. Patel (1999) 2 Supreme Court Cases 106.

6. On the going through these decisions, I find that the workmen would be entitled to the wages from the date of the award. Moreover, they are entitled to the wages to be calculated as per minimum wages which are made applicable from time to time. However, as there is some dispute as to whether the employees did not report for work pursuant to the offer made by the employer in July 2017, I am inclined to direct the employer to deposit the wages as per minimum wages applicable for the period from July 2017 till 25/02/2019 in this Court.

7. The application to the extent that the employer pay to the employees wages as per minimum wages applicable from time to time from the date of the award till June 2017 is allowed.

8. The arrears of wages are to be paid to the workmen

concerned within a period of 6 weeks from today.

9. The employer is directed to deposit the wages of these employees as per minimum wages applicable for the period from July 2017 till 25/02/2019 in this Court within a period of 8 weeks from today.

10. The amount deposited in this Court to be invested in a Fixed Deposit in any Nationalised Bank.

11. The applications are partly allowed and disposed of.

(M.S.KARNIK, J.)