

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1893/2019

Patur Municipal Council
 ..VS..
 Sayyad Asgheruddin Sayyad & anr.

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri R.J. Kankale, Advocate for the petitioner
 Shri P.S. Gawai, Advocate for the respondent no. 1

CORAM : Z.A.HAQ, J.
DATED : 07/03/2019

Heard.

The Municipal Council – employer has challenged the order passed by the Labour Court by which the application filed by the respondent no. 1 – employee under Section 33C (2) of the Industrial Disputes Act, 1947 (for short “the Act of 1947”), is allowed. The Labour Court has directed the Municipal Council to pay an amount of Rs. 65,314/- to the respondent no. 1 – employee alongwith interest @ 6% per annum, the interest being chargeable from 29/08/2016 i.e. the date of filing of the application before the Labour Court, till the amount is paid to the respondent no. 1 – employee. The Labour Court has recorded that the Municipal Council had illegally withheld the amount of arrears of 5th pay commission payable to the respondent no. 1 – employee.

Though in the petition various challenges are raised, at the time of hearing the learned advocate for the petitioner has focused on the challenge to the award of interest by the Labour Court. Relying on the judgment given

in the case of Municipal Council, Bhandara vs. Smt. Vimal Wd/o Sadaram Kodape reported in 2014 (4) ALL MR at page 632, it is argued that the Labour Court does not have jurisdiction to award interest in the proceedings under Section 33C (2) of the Act of 1947.

The learned advocate for the respondent no. 1 – employee has supported the impugned order and has referred to the judgment given in the case of Prabhavati Ramgarib B. vs. Divisional Railway Manager reported in 2011 (Supp.1) Bom. C.R. at page 87.

In the judgment given in the case of Municipal Council, Bhandara (supra), it is held that while considering the application under Section 33C (2) of the Act of 1947, the Labour Court cannot grant interest. Accordingly, it has to be held that the order passed by the Labour Court directing the petitioner – Municipal Council to pay interest @ 6% per annum on the amount of Rs. 65,314/-, is unsustainable. However, considering the facts of the present case, exercising jurisdiction under Article 226 of the Constitution of India, I direct the petitioner – Municipal Council to pay interest @ 6% per annum on the amount of Rs. 65,314/-, the interest being chargeable from 29/08/2016 till the amount is paid to the respondent no. 1 – employee.

The advocate for the respondent no. 1 – employee has stated that the respondent no. 1 has also filed writ petition before this Court claiming that he is entitled for further amount of interest on the amount of Rs. 65,314/-.

It is clarified that this order will not affect the contentions of the respondent no. 1 in the petition filed by him.

The writ petition is **disposed** in the above terms. In the circumstances, the parties to bear their own costs.

JUDGE

Ansari