

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

WRIT PETITION NO.1591 OF 2019

(DEPUTY ENGINEER, WORK SUB DIVISION, ZP...VS..BALU VISHRAM GAWAI & ANR.)

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

Court's or Judge's orders

Shri B.N.Jaipurkar, Advocate for Petitioners.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 26, 2019.

Heard.

The petitioners (employer) have challenged the order passed by the Labour Court by which the application filed by the respondent No.1 employee under Section 33-C(2) of the Industrial Disputes Act, 1947 is allowed and the claim of the respondent No.1-employee for difference of wages and earned leave is upheld.

The employer had not denied that the employee is entitled for the amount claimed by him. According to the employer, it had sought sanction from the State Government and had also made correspondence with the Divisional Commissioner in the matter and as the sanction was not received from the State Government, the amount was not paid to the employee.

The petitioners have not examined any witness before the Labour Court. After considering the material brought on record by the respondent No.1-employee, the Labour Court has summed-up its conclusion in paragraph 14 of the impugned order as follows:

“14. It is pertinent to note that on perusing said resolution, it appears there is no such provision to seek sanction from State Government before giving difference of arrears. Further, it is the contention of the non-applicants that accordingly, they have made correspondence with Divisional Commissioner, Amravati vide letter dated 16/03/2017. It is pertinent to note that non-applicants have neither adduce oral nor documentary evidence in their defence nor they have produced letter dated 16/03/2017. Further, non-applicants have not produced any material on record to show that it is necessary to obtain sanction of the Government. Further, non-applicants have not produced any evidence to show that whether any steps are taken to pay difference of arrears to the applicant. From the material on record, I am of the view that, applicant has proved that he has pre-existing right to claim difference of wages from the non-applicants in view of admission given by the non-applicants as well as orders passed by the Hon'ble Industrial Court, Akola. As applicant has proved that he has pre-existing right to claim difference of wages, therefore, he is entitled to recover the same from the non-applicants.”

The Labour Court has also rightly examined whether the respondent No.1-employee is entitled for interest on the amount which he has to recover from the petitioner. The considerations are in paragraph No.15 of the impugned order, as follows :

“15. It is the contention of the applicant that he had made oral request as well as written application at Exh.U-16 to the non-applicants to pay amount of difference of arrears. However, they have not paid the same, therefore, he has claimed interest at the rate of 18% per annum on the said amount in view of ratio laid down in cases cited Supra. It is pertinent to note that it is settled legal provision that there is no provision in respect of interest in the I.D. Act. However, in view of

case law cited suprra, it has been observed by Hon'ble High Court that Labour Court has jurisdiction and authority to grant interest as it deems fit. Therefore, considering the facts and circumstances of the case, I am of the opinion that it would be just and proper to grant 6% interest to the applicant on the amount difference of wages from the date of filing of the application i.e. 04/03/2017 till it's realization.....”

I find that the conclusions of the Labour Court are based on proper appreciation of the material on record and the relevant law.

The petitioners have not been able to point out any illegality or perversity in the findings recorded by the Labour Court. I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. No costs.

The respondent No.1-employee has retired on attaining the age of superannuation and presently is aged about 64 years. It is unfortunate that at this stage he is required to litigate for his legitimate claim.

Considering the facts of the case, it is directed that if the amount as per the impugned order is not paid to the respondent No.1-employee till 31st May 2019, the Deputy Engineer Works Sub-Division, Zilla Parishad, Balapur, District : Akola and the Chief Executive Officer, Zilla Parishad, Akola will be liable to pay interest on the amount receivable by the respondent No.1-employee, the interest at the rate of 10% per annum, being chargeable from 1st June 2019.

JUDGE