

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.9128 OF 2019
IN RAST/22325/2019
WITH REVIEW APPLICATION NO.143 OF 2020

SARDA CLOTH STORES AHMEDNAGAR THROUGH THE THEN
PARTNER
VERSUS
PANDHARINATH BHANUDAS MEHETRE

Mr.B.B.Yenge, Advocate for the applicant.
Mr.Parag Barde, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 11/08/2020

PER COURT :

1. Having heard the learned Advocates for the respective sides on the application for condonation of delay of 103 days, the same is allowed. The review application is taken up for final hearing at the request and consent of both the parties.

2 The learned Advocates for the applicant/Management and the respondent/employee are united in submitting that the shop in which the respondent was working, was registered under the Bombay Shops and Establishment Act on 05/05/1984 and came into business. On account of a confusion about the date of employment

of the respondent in the said shop, it was recorded throughout in the litigation journey between the parties that the establishment had commenced business in 1981. It was on the basis of the said date that the compensation payable to the respondent in lieu of reinstatement in service and continuity, was calculated and interest @ 6% p.a. was granted. Now, that the factum of commencement of business and employment of the respondent in 1984 is undisputed, the compensation granted w.e.f. 1981 will have to be reduced.

3. The learned Advocate for the respondent/employee submits on instructions that the amount of compensation as payable in 2008 when the respondent was relieved from employment, can be reduced from 1,82,000/- to 1,50,000/- as the base amount. The learned Advocate for the applicant/Management submits on instructions that the Management is agreeable for such reduction and quantifying the base amount of compensation at 1,50,000/- payable in 2008.

4. In so far as the rate of interest @ 6% granted by this Court vide judgment dated 09/05/2019 (which is under review) is concerned, a review petition actually would not be maintainable. Mr.Yenge, the learned Advocate for the Management submits that any reduction in the rate of interest of 6% p.a. that was granted, would be acceptable

to the Management. The learned Advocate for the respondent/employee strenuously submits that a review cannot be maintained to the extent of the rate of interest unless the interest component appears to be exorbitant and this Court may dismiss the review application to that extent.

5. I find that a slight reduction in the rate of interest could be possible keeping in view that the applicant shop is said to be permanently closed down and the Covid-19 pandemic has impacted families who were in business and to put an end to the litigation between the parties. I am, therefore, reducing the rate of interest from 6% p.a. to 4.5% p.a. on the base amount which was payable in 2008 so as to be calculated for the last 12 years.

6. In view of the above, the review application is partly allowed. The base amount of compensation would be Rs.1.5 lac and with the addition of the interest component @ 4.5 % p.a. from 2008 onwards until 31/08/2020, Rs.2,31,000/- shall be paid by the Applicant. If this amount is deposited before the Industrial Court at Ahmednagar on or before 31/08/2020, the respondent/employee would be at liberty to withdraw the said amount without conditions and under proper identification by the Advocate representing him before the

said Court.

7. In the event the applicant/Management does not deposit the said amount within the said period, the interest component @ 6% p.a. with compounding interest on the base amount of Rs.1.5 lac from 2008 onwards till actually paid, would be payable by the Management.

(RAVINDRA V. GHUGE, J.)