

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

Writ Petition No.8452 of 2019
Janmadhyam Vs. State through Addl. Labour Comm. and others

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

Court's or Judge's orders

Mr. A.J. Gilda, Advocate for the petitioner
Mrs. Mrunal Naik, AGP for the respondents No.1 and 2

CORAM : MANISH PITALE, J.

DATED : JANUARY 21, 2020

By this writ petition, the petitioner has challenged order dated 28/2/2019, passed by the Additional Labour Commissioner, Vidarbha Region, Nagpur. The said Authority has referred dispute raised by the respondent No.3 under the provisions of Section 17 R/w Section 5 of The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955. According to the learned counsel for the petitioner, the said order has been passed without application of mind and in pedantic manner in as much as specific objection raised on behalf of the petitioner to the effect that the provisions of the Payment of Gratuity Act would not be applicable to the petitioner herein since there were less than ten employees employed in the said establishment, was not considered at all.

2. Having perused the impugned order passed by the Assistant Labour Commissioner, this Court is of the opinion that the same cannot be set aside on the ground raised on behalf of the petitioner. The claim made on behalf of the petitioner that there are less than ten employees in the establishment is a matter that would have to be supported with evidence before the Competent Court. Only because the same has not been referred in the impugned order ought not to lead to setting aside of the impugned order, because perusal of the same shows that nature of dispute between the parties has been referred to and it has been directed that the same be placed before the respondent No.2 - The Presiding Officer, Labour Court, Amravati, for adjudication.

3. In view of above, the writ petition is dismissed with the observation that the specific objection raised by the petitioner shall be considered by the respondent No.2 on the basis of material that may be placed on record by the rival parties.

JUDGE