

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4537 OF 2018

Ahmednagar Municipal Corporation,
Ahmednagar,
Through it's Commissioner

-- PETITIONER

VERSUS

Suresh Kondiba Ithape,
Age-50 years, Occu-Service,
R/o.Baijabai Society, Pipeline Road,
Savedi, Ahmednagar

-- RESPONDENT

Mr.V.S.Bedre, Advocate for the petitioner.
Mr.P.V.Barde, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : FEBRUARY 23, 2021

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. Vide the impugned judgment dated 25/07/2016 delivered by the Labour Court in Application (IDA) No.11/2011, directed the petitioner is directed u/s 33(C)(2) of the I.D.Act, to pay an amount of Rs.14,65,135/- to the applicant, subject to the decision in WP No.3333/1999. It is undisputed that this petition was decided by this Court vide judgment

dated 05/01/2017. The said judgment was assailed before the Hon'ble Apex Court in Spl.Leave to Appeal (C)(Diary No.11662/2017) and by order dated 13/10/2017, the appeal before the Hon'ble Apex Court, filed by the present petitioner, has been dismissed.

3. I have considered the strenuous submissions of the learned Advocate for the petitioner, who has drawn my attention to the 18 grounds formulated in the memo of the petition. He submits that the impugned judgment is perverse, unsustainable and against the tenets of Law. The Labour Court has mechanically granted a huge amount to the original applicant without exercising it's jurisdiction of calculating the unpaid dues u/s 33(C)(2).

4. With the assistance of the learned Advocates, I have gone through the record available and the impugned judgment. The original applicant had supported his claim for recovery of unpaid dues from an employer by tendering a chart marked as Schedule A and B annexed to the application. He has based his calculations on the judgment of the Industrial Court dated 18/02/1999, which was delivered in Complaint (ULP) No.156/1994. That judgment was under challenge in WP No.3333/1999. This Court sustained the judgment of the Industrial Court while dismissing the said petition, by judgment dated 05/01/2017. The Hon'ble Apex Court has sustained the said judgment vide it's order dated 13/10/2017.

5. The solitary witness of the petitioner namely Ambadas Sonwane deposed before the Labour Court. After perusing the calculations put forth by the applicant, below Schedule A and B, he admitted the difference of wages paid to a Junior Engineer, as being payable to the respondent.

6. In view of the above and as identically placed employees have succeeded upto the Hon'ble Apex Court and as the witness of the Corporation has admitted the calculations of unpaid difference of wages payable to the respondent/employee, this petition is devoid of merit and is, therefore, dismissed.

7. Rule is discharged.

(RAVINDRA V. GHUGE, J.)