

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 CIVIL APPLICATION NO.3645 OF 2021
IN WP/667/2020

VIJAY LAXMANRAO VAHADANE AND OTHERS
VERSUS
KINETIC ENGINEERING LTD

Mr.Kiran M. Nagarkar, Advocate for the applicants.
Mr.V.S. Bedre, Advocate for the respondent.

CORAM : N.J.JAMADAR, J.
DATE : 31.03.2021

PC :-

01. This application is preferred by the applicant seeking permission to withdraw a sum of Rs.12 lakhs deposited by the respondent-petitioner pursuant to order passed by this Court on 11.02.2021, in Civil Application No.5833 of 2020. By the said order, this Court has modified earlier order dated 17.02.2020, whereby the respondent-petitioner was directed to deposit an amount of Rs.18 lakhs as a condition for restraining the applicants-respondents from resorting to coercive steps to recover the amount ordered to be paid by the Labour Court, Ahmednagar, in Application (IDA) No.50 of 2013 dated 30.07.2019.

02. Though the litigation has a chequered history yet, for the purpose of determination of the instant

application, it would be suffice to note that the applicants had preferred Application (IDA) No.50 of 2013 before the Labour Court, Ahmednagar, under section 33 (c) (2) of the Industrial Disputes Act, 1947 [the Act, 1947] for recovery of difference of wages in terms of judgment and order passed by the Industrial Court, Ahmednagar in Complaint (ULP) No.220/1990, 222/1990, 225/1990 and 305/1990 dated 28.01.1991. The Labour Court was persuaded to allow the applications and direct the petitioner-employer to pay difference of wages to the respective applicants. Clause (ii) of the order dated 30.07.2019 reads as under :-

"(ii) The opponent company do pay difference of wages of Rs.15,04,049/- to applicant no.1 Vijay Vahadane for the period as per Annexure-A Exh.U-4/1. The opponent to pay Rs.11,33,680/- as per Annexure-A, Exh.U-4/2 to applicant no.2 Suresh Chirke and to pay Rs.8,78,237/- to applicant no.4 Shrikrushna Jadhav as per Annexure - A filed at Exh.U-4/3."

03. Being aggrieved, the petitioner-employer has invoked the writ jurisdiction of this Court. As noted above, the applicants-employees were restrained from resorting to coercive steps subject to deposit of amount of Rs.12 lakhs.

04. The applicants have now moved this application seeking permission to withdraw the said amount on the

count that they have been deprived of fruits of the order passed by the Industrial Court, in the year 1991. They are in financial constraints. They require the amount to meet necessities of life.

05. Mr. Bedre, learned Counsel for the respondent - petitioner resisted the prayer. It was submitted that the learned Judge, Labour Court has committed a manifest error in computing difference in wages. The justifiability of the impugned order warrants consideration. Apart from applicant No.1, rest of the applicants, are not in the employment of the petitioner. There are no averments in the application in justification of prayer for withdrawal of amount qua the applicant Nos.2 and 3. In the circumstances, if the applicants are permitted to withdraw the amount deposited by the petitioner, the latter would be left in the lurch, in the event the petition is allowed and it is held that the applicants are not entitled to the difference in wages as computed by the Labour Court.

06. It is true that the averments in the application are restricted to the requirement of and justification for withdrawal of amount qua applicant No.1. As distinct amounts were awarded to the applicants, by the Labour Court, it would be in the fitness of things that the

applicants prefer distinct applications along with justification for withdrawal of the amount. However, since there are averments in the instant application, in support of claim for withdrawal of amount by applicant No.1, I find it expedient to restrict this application to applicant No.1 and grant liberty to applicant Nos.2 and 3 to file separate application, for withdrawal of their respective portion of the amount.

07. It is the claim of the applicant No.1 that he gets salary of Rs.10,000/- per month only. By the impugned order, the applicant No.1 is awarded a sum of Rs.15,04,049/- towards difference in wages. The claim of applicant No.1 that he requires the amount deposited by the petitioner to meet the necessities of life, in this inflationary era, cannot be said to be unsustainable.

08. In my considered view, if applicant No.1 - Vijay Vahadane is permitted to withdraw a sum of Rs.5,00,000/- [Rupees Five Lakhs], which would come to 1/3rd of the principal amount awarded to him, the interest of justice would be met.

09. Hence, the following order :-

The application stands partly allowed qua

applicant No.1 - Vijay Vahadane.

The applicant No.1 - Vijay Vahadane is permitted to withdraw a sum of Rs.5,00,000/- [Rupees Five Lakhs] on furnishing an undertaking to the satisfaction of the Registrar (Judicial) of this court to bring back the said amount in the event the petition is allowed and/or the applicant No.1 is directed to deposit the said amount.

The balance amount be invested in a Fixed Deposit in a nationalized bank initially for a period of one year.

The applicant Nos.2 and 3 are at liberty to file separate applications for withdrawal of the respective portions of the amount and those applications would be considered on their own merits.

The application stands accordingly disposed of.

[N.J.JAMADAR,J.]

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