

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 12087 OF 2018**

Nagnath Muktaji Ghar

..PETITIONER

VERSUS

Liquidator Cooperative Oil Industries Ltd., Latur

..RESPONDENT

....

Mr. G.N. Kulkarni (Mardikar), Advocate for petitioner

Mr. P.P. Shahane and Mr. P.L. Shahane, Advocates for respondent

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**CORAM : R.G. AVACHAT, J.**

**DATED : 09<sup>th</sup> FEBRUARY, 2021**

**PER COURT :**

1. Heard. The challenge in this writ petition is to order dated 24<sup>th</sup> August, 2017 passed by Labour Court, Latur in Application IDA No. 205 of 2011. By the impugned order, the aforesaid application for recovery of amount of Rs.4,94,340/- from the respondent under provisions of Section 33C (2) of the Industrial Disputes Act, 1947 came to be dismissed.

2. The petitioner claims to have served as watchman with the Cooperative Oil Industries Ltd. ("oil company"). Later on the oil company went into liquidation. A liquidator has been appointed by the authorities under the Maharashtra Cooperative Societies Act, 1960. A sum of Rs.4,94,340/- was said to be due from the oil company to the petitioner

towards his service benefits. The liquidator started disbursing the dues of oil company's employees. Since the amount is due to petitioner, he preferred Application IDA No. 205 of 2011 with the Labour Court, Latur. The Labour Court, Latur dismissed the application on account of petitioner's failure to prosecute the same. As such, the application came to be dismissed for want of evidence.

3. Mr. Kulkarni, learned counsel for the petitioner would submit that petitioner's wife passed away in 2017. She was not keeping well for long. Due to her ill health and demise, the petitioner could not appear before the Labour Court. The petitioner is eighty five years of age. His hard earned money is due from the oil company. The petitioner may be given an opportunity to produce evidence in respect of his case.

4. Mr. Shahane, learned counsel for the respondent would, on the other hand, submit that the petitioner was negligent in prosecuting his application. The petitioner want to recover his alleged dues which dates back to forty years. The petitioner even wants to have a residential plot forming part of the land of oil company. The alleged dues of the petitioner is a stale claim. The Labour Court has rightly dismissed his application. He, therefore, urged for dismissal of writ petition.

5. It is not disputed that the petitioner was in service as watchman with the oil company. Merits of the claim of the petitioner cannot be gone into in this writ petition. The petitioner is eighty five years of age. His wife was not keeping well and died pending the application. The petitioner, therefore, could not make it to the Labour Court to produce the evidence. His application, therefore, came to be dismissed. With a view to give the petitioner an opportunity to lead evidence and considering his claim, which pertains to his service dues, I am inclined to allow the writ petition.

6. Writ petition is allowed. Impugned order dated 24<sup>th</sup> August, 2017 passed by Labour Court, Latur is, therefore, set aside. The Presiding Officer, Labour Court, Latur is requested to give the petitioner an opportunity to produce evidence and then decide Application IDA No. 205 of 2011 on its merits. Needless to mention, if the petitioner again failed to lead evidence, the Labour Court may dismiss the application for want of prosecution. Writ petition is disposed of accordingly.

**( R.G. AVACHAT, J. )**

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