

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

WRIT PETITION NOS. 3520/2020, 3521/2020, 3522/2020,
3523/2020, 3524/2020 AND 3525/2020

[1] WRIT PETITION NO.3520 OF 2020

DB CORP LTD.
A Registered Company,
Through its Authorised
Signatory, Plot No.6,
Dwarka Sadan Press
Complex, M.P. Nagar,
Bhopal, Madhya Pradesh. .. **PETITIONER**

.. **VERSUS..**

Santosh Malanna Putlagar,
Age 44 years, Occ. Employment
Address – Old RTO Road,
Kulswamini Mangal Karyalaya,
Ambikanagar, Akola,
District-Akola. .. **RESPONDENT**

WITH

[2] WRIT PETITION NO.3521 OF 2020

DB CORP LTD.
A Registered Company,
Through its Authorised
Signatory, Plot No.6,
Dwarka Sadan Press
Complex, M.P. Nagar,
Bhopal, Madhya Pradesh. .. **PETITIONER**

.. **VERSUS..**

Tushar Nanasaheb Pudkar,
R/o. Dhanwantari Nagar,
Engineering Colony, Mothi Umari,
Akola.

..

RESPONDENTWITH**[3] WRIT PETITION NO.3522 OF 2020**

DB CORP LTD.
A Registered Company,
Through its Authorised
Signatory, Plot No.6,
Dwarka Sadan Press
Complex, M.P. Nagar,
Bhopal, Madhya Pradesh.

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PETITIONER.. VERSUS..

Deepak Vasant Rao Mohite,
Age 34 years,
Occ – Employment,
Address – Basera Colony,
Near Shrikrishna Temple,
Yevta Rd, Malkapur, Akola,
Dist. Akola.

..

RESPONDENTWITH**[4] WRIT PETITION NO.3523 OF 2020**

DB CORP LTD.
A Registered Company,
Through its Authorised
Signatory, Plot No.6,
Dwarka Sadan Press
Complex, M.P. Nagar,
Bhopal, Madhya Pradesh.

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PETITIONER.. VERSUS..

Manoj Ramdas Wakode,
Age 37 years,
Occ – Employment,
Address – Pailpada,
Dist. Akola.

..

RESPONDENT**WITH****[5] WRIT PETITION NO.3524 OF 2020**

DB CORP LTD.
A Registered Company,
Through its Authorised
Signatory, Plot No.6,
Dwarka Sadan Press
Complex, M.P. Nagar,
Bhopal, Madhya Pradesh.

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PETITIONER.. VERSUS..

Raju Ramesh Borkute,
Age 40 years,
Occ – Employment,
Address-Marutinagar,
Balapur Naka, Old City, Akola,
Dist. Akola.

..

RESPONDENT**WITH****[6] WRIT PETITION NO.3525 OF 2020**

DB CORP LTD.
A Registered Company,
Through its Authorised
Signatory, Plot No.6,
Dwarka Sadan Press
Complex, M.P. Nagar,
Bhopal, Madhya Pradesh.

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PETITIONER.. VERSUS..

Roshan Ambadas Pawar,
Age 31 years,
Occ-Employment,
Address-Mhaisang,
Dist. Akola.

.. RESPONDENT

.....
Shri S.N. Tapadia, Advocate for the petitioners,
Shri Rahul Dhande, Advocate a/w Shri V.B. Bhise, Advocate for
the respondents.

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CORAM : N.B. SURYAWANSHI, J.
RESERVED ON : 15.07.2021.
PRONOUNCED ON : 11.08.2021.

JUDGMENT

1. **Rule.** Rule made returnable forthwith. Heard the petitions finally with the consent of the parties.

2. These petitions challenge the orders passed by the Labour Court, Akola allowing amendment in the statements of claims in reference IDA Nos.2/2019, 6/2019, 4/2019, 1/2019, 3/2019 and 5/2019. For the sake of brevity, the litigating sides in all these petitions are referred to as 'the establishment' and 'the employees'

3. The employees approached the appropriate government claiming difference of wages as per the recommendations of Majithia Wage Board. The appropriate government forwarded the references of the employees to the Labour Court for adjudication under Section 17 (1) of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act of 1955) (for short, 'Act of 1955). In the references, the employees filed their statements of claims claiming their arrears / difference of wages.

4. The establishment appeared and opposed the claim of the employees by filing written statement on 7.9.2019. The Labour Court framed issues on 4.10.2019. Thereafter, at the instance of the employees, the establishment was directed to produce audited balance-sheet, profit and loss statement and gross revenue for Akola region. The establishment placed these documents on record.

5. The employees thereafter filed applications for amendment in the statements of claims contending that the

establishment comes under the category of Class-II as per their gross revenue. The employees are therefore entitled to higher amount of arrears than claimed by them in their statement of claims, as per the calculations of the Chartered Accountant.

6. The establishment opposed the applications contending that the applications for amendment are not maintainable, as there is no such procedure under the Industrial Disputes Act, 1947 to amend the statement of claim filed in the matter of reference. The Labour Court can only decide the reference made to it and does not have any power / authority to permit amendment in the statement of claim. The statement of claim can only be amended by the authority which referred the matter to the Labour Court. The amendment goes beyond the terms of reference and, therefore, the application be dismissed. The Labour Court allowed the amendment applications, hence the present petition.

7. Heard the learned Advocate for the petitioner and the learned Advocate for the respondent.

8. The learned Advocate for the establishment strenuously submitted that there is no procedure under the Industrial Disputes Act, 1947 or under the Industrial Disputes (Bombay) Rules, 1957 (for short 'Bombay Rules') to amend the statements of claims filed in the matter of references. Therefore, the Labour Court has committed a serious error of law in allowing the amendment applications. He submitted that the amendment allowed by the Labour Court changes the nature of the references. It is a settled legal position that the Labour Court cannot go beyond the terms of the reference. He therefore submitted that the impugned orders passed by the Labour Court thereby permitting the respondent to amend the statement of claims are liable to be quashed and set aside. Further submission is that though Rule 16-A of the Industrial Disputes (Bombay) Rules, 1957 (for short 'Bombay Rules') is relied upon by the Labour Court while allowing the amendment, the same only permits the amendment to the statement of claim and the Labour Court cannot allow amendment in the order of reference. According to the learned Advocate, Rule 16-A of the Bombay Rules, 1957 is not applicable in the facts of the present cases. He further submitted that as per Section 10 (1)(c) of the Industrial

Disputes Act, 1947 (for short 'the Act of 1947'), only Labour Commissioner has the power to amend the reference and the Labour Court cannot go beyond the terms of the reference. According to him, therefore, the impugned order is without jurisdiction and the same is liable to be quashed and set aside. In support of his submission, he relied upon the following citations :

- (1) Anantharaman Raman and another .vs. K.N. Vani and others, 1981 SCC OnLine Bom 322.
- (2) The Jaipur Udyog Ltd. .vs. The Cement Work Karmachari Sangh, Sahu Nagar, (1972) 1 SCC 691.
- (3) The State of Rajasthan .vs. Darshan Ram and another, decided on 26.05.2015 by High Court for Rajasthan at Jodhpur.
- (4) Globe Ground India Employees Union .vs. Lufthansa German Airlines and another, (2019) 15 SCC 273.
- (5) Firestone Tyre and Rubber Company of India (P) Limited .vs. Workmen Employed, Represented by Firestone, Type Employees' Union, (1981) 3 SCC 451.
- (6) Jaipur Spinning and Weaving Mills Ltd. .vs. Jaipur Spinning and Weaving Mills Ltd., Mazdoor Union and Another, 1959 SCC OnLine Raj 177.

9. *Per contra*, the learned Advocate for the employees submitted that the words 'any amount' are used in Section 17 of the Act of 1955. Therefore, the employees were entitled to claim any amount due to them in terms of the recommendations of the Majithia Wage Board. After going through the audited balance sheet, profit and loss statement, gross revenue for Akola region produced on record by the establishment, the employees realised that they are entitled for enhanced amount of difference of wages in terms of the Majithia Wage Board. Therefore, they filed applications for amendment of statements of claims. Rule 16-A of the Bombay Rules permits the amendment of statement of claim and written statement at any stage of proceeding. Therefore, the Labour Court was justified in allowing the amendment. According to him, there is no substance in the challenge raised by the establishment and the petitions are liable to be dismissed. In support of his submission, he relied upon the following citations :

- (1) Kasturi and Sons (Private) Ltd. .v. Salivateswaran and another, AIR 1958 SC 507.

- (2) Anantharaman Raman and another .vs. K.N. Vani and others, 1981 SCC OnLine Bom 322.
- (3) D.B. CORP. LTD. .v. State of Maharashtra and others, 2018 (6) Mh.L.J. 871.
- (4) Dr. Panjabrao Deshmukh Memorial Medical College, Amravati and one .vs. Rajendra Vitthalrao Kuche in Writ Petition No.5829/2016, decided on 14.06.2017.

10. The learned Advocate for the employees further submitted that the appropriate government has already amended the reference on 6.7.2021 and forwarded the same to the Labour Court for adjudication. He placed on record the copy of revised reference along with communication dated 6.7.2021. The same is marked 'X' for the purpose of identification. He, therefore, submitted that in view of the revised reference, the present petitions have become infructuous and they are liable to be dismissed.

11. Heard both the sides at length. Perused the copy of reference, statements of claims, written statement, application for amendment, reply filed to it and the impugned order passed by the Labour Court and revised reference order.

12. For considering the controversy, the relevant provisions are required to be considered. They are :

Industrial Disputes Act, 1947

10. Reference of disputes to Boards, Courts or Tribunals.-

(1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time], by order in writing,--

(a)

(b)

(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; ...

Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955.

17. Recovery of money due from an employer :-

(1) Where any amount is due under this Act to a newspaper employee from an employer, the newspaper employee himself, or any person authorized by him in writing in this behalf, or in the case of the death of the employee, any member of his family may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to him and if the State Government

or such authority, as the State Government may specify in this behalf, is satisfied that any amount is so due, it shall issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrears of land revenue.

(2) If any question arises as to the amount due under this Act to a newspaper employee from his employer, the State Government may, on its own motion or upon application made to it, refer the question to any Labour Court constituted by it under the Industrial Disputes Act, 1947 or under any corresponding law relating to investigation and settlement of industrial disputes in force in the State and the said Act or law shall have effect in relation to the Labour Court as if the question so referred were a matter referred to the Labour Court for adjudication under that Act or law.

Industrial Disputes (Bombay) Rules, 1957

16A. Amendment to statements of claims and written statement :

A Labour Court or Tribunal, may allow at any stage of the proceedings, amendments to statements of claims or written statements filed by the parties in response to notices served under rule 16 to such extent as the Labour Court or as the case may be, Tribunal may consider necessary for the purpose of determining the real issues included in the order of reference.

13. It is a settled legal position that the Labour Court cannot go beyond the terms of the reference and it cannot allow amendment to the order of reference, it cannot modify the reference order made by the appropriate Government. The Labour Court lacks competence to correct/modify/amend/alter the terms of the reference and cannot adjudicate the matters not within the purview of the dispute actually referred to it by the order of reference.

14. Rule 16-A of the Bombay Rules, 1957 empowers the Labour Court or Tribunal, as the case may be, to allow amendment to statements of claims and written statements at any stage of the proceeding, if Labour Court or Tribunal considers it necessary for the purpose of determining the issues included in the order of reference.

15. This Court in **Venco Research and Breeding Farm Ltd. .vs. Rashtriya Shramik Aghadi and another**, 2013 II CLR 311 held that “in view of Rule 16-A of the Bombay Rules, it is crystal clear that the parties can amend their plea at any time. An amendment can be allowed at any stage, if it is necessary for deciding the real issue between the parties.”

16. In **Ganpat K. Sanade .vs. Managing Director, Nasik Sahakari Sakhar Karkhana Limited**, 2008 (1) Bom.C.R. 453, this Court held that Rule 16-A of the Industrial Disputes (Bombay) Rules empowers the Labour Court or the Tribunal to permit the parties to amend their statement of claim or written statement if the amendment sought is necessary for the purpose of determining the real issues before it.

17. Learned Single Judge of this Court in **Writ Petition No.5829/2016, decided on 14.6.2017 (Dr. Panjabrao Deshmukh Memorial Medical College and one .vs. Rajendra Vitthalrao Kuche)**, while considering the issue, whether the Labour Court was justified in rejecting the application for amendment in the written statement held thus :

6. “Rule 16-A of the Industrial Disputes (Bombay) Rules empowers Labour Court or Tribunal to allow amendment at any stage of the proceedings, if the proposed amendment is necessary for the purpose of determining the real issue included in the order of reference. Needless to state that respondent raised the dispute and challenged the order of his termination. The question as to whose behest action was initiated is thus relevant and essential to determine the controversy between the parties. Considering the nature of dispute, proposed

amendment was essential. No prejudice would be caused to respondent if proposed amendment is allowed. Interference is, therefore, warranted in the writ jurisdiction.”

18. On going through the relevant provisions and the exposition of law in the above referred decisions, it is clear that the Labour Court was well within its jurisdiction in allowing the amendment in the statement of claims. The amendment was necessary for complete adjudication of the disputes between the parties and would also avoid multiplicity of litigation.

19. There is no merit in the submission of the learned Advocate for the establishment that Rule 16-A of the Bombay Rules is not applicable in the facts of the present case and that the Labour Court has amended the terms of reference. By the orders impugned in the present petitions, the Labour Court has allowed the amendment in the statements of claims and by no stretch of imagination, it can be said that by allowing the said amendment, the Labour Court has amended the terms of the reference.

20. In **Madanpal Singh .vs. State of U.P. and others, 2000 CJ (SC) 940**, the Apex Court was considering a case wherein in the reference wrong name of the workman was mentioned. The parties led evidence knowing as to who was the real workman. The Labour Court passed award of 'no dispute' because of the wrong name of the workman. The Apex Court in these facts held that "when it came to its notice that the name of the workman was not correctly mentioned in the reference through there was no doubt about his identity, the Labour Court itself could have sought correction of the reference from the State Government. The Apex Court further observed that "when the reference had been amended jurisdiction stood conferred on the Labour Court and it could have held proceedings from the stage taking the reference to be valid from the date of its amendment."

21. In the instant case, the Labour Court forwarded the amended statement of claims to the appropriate government and the appropriate government has amended the references on 6.7.2021, vide 'Annexure-X'. Thus, proper procedure is followed and the references are amended in view of the revised reference and the Labour Court is therefore entitled to adjudicate the

revised references which would also avoid multiplicity of proceeding.

22. By way of amendment relevant and essential facts are sought to be brought on record which would help the Labour Court to determine the issues in controversy between the establishment and the employees and it cannot be said that the amendment would change the nature of the proceedings. Admittedly, the oral evidence of the parties has not commenced and no prejudice is likely to be caused to the establishment by allowing the applications.

23. In **Anantharaman Raman and another** (supra), the issue before this Court was “whether the Tribunal travelled beyond the scope of reference”. In the instant case, the issue is “whether the Labour Court was justified in allowing the amendment.

24. In **Jaipur Udyog Ltd.** (supra), the jurisdiction of Tribunal to consider allied questions, fell for adjudication before the Apex Court. This authority is of no help to the petitioner.

25. In **State of Rajasthan** (supra), the learned Single Judge

of Rajasthan High Court, in the facts of that case, held that the Labour Court travelled beyond its jurisdiction in deciding and modifying the reference order made by the Appropriate Government. Such are not the facts of the present case.

26. In **Globe Ground India Employees Union** (supra), is rendered in the different facts and does not help the establishment's case.

27. In **Firestone Tyre and Rubber Company of India (P) Limited** (supra), is rendered in totally different facts and the ratio in that case does not help the establishment's case.

28. The Labour Court has passed reasoned orders and no fault is found with the interpretation of the relevant provisions by the Labour Court. No ground is made out by the petitioner-establishment to interfere in the orders granting amendment. I do not think it will be a proper exercise of discretion of this Court under Article 226 of the Constitution of India to interfere in these matters. The writ petitions are, therefore, **dismissed**. Rule discharged. The parties will, however, bear their own costs.

(N.B. SURYAWANSHI, J.)