

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

17 WRIT PETITION NO.90 OF 2011

ARJUN JOROSINGH JADHAV
VERSUS
SAYYAD SALIM CONTRACTOR

...

Advocate for Petitioner : Mr. S. A. Dhengle
Advocate for Respondent : Ms. Fatema Kazi h/for Mr. S.S. Kazi

CORAM : RAVINDRA V. GHUGE, J.
DATE : 7th March, 2022

ORDER:

1. By this petition, the petitioner (deceased) challenges the judgment of the Labour Court, Jalna dated 20.08.2008 by which Application (IDA) No.04 of 2006 filed under section 33-C(2) of the Industrial Disputes Act, 1947 has been dismissed.

2. I have considered the strenuous submissions of the learned Advocates for the respective sides.

3. The original applicant has passed away and his legal heirs are on record. Claim before the Labour Court was for payment under section 33-C(2) and, therefore, the legal heirs can prosecute the said claim.

4. Perusal of the impugned judgment would indicate that it reflects total non application of mind. The respondent had filed his written statement below Exh.C-8. The petitioner had led oral evidence

by preferring an affidavit in lieu of examination in chief at Exh.U-14. In a single paragraph, the Labour Court has rejected the claim on the ground that section 33-C(2) will enable the Labour Court to consider only if there a settlement binding the parties or there is a compromise between the parties and the Labour Court does not have power to deal with any other issue. This is a grossly perverse and erroneous conclusion. Perversity in the impugned judgment is, therefore, glaring on account of the fact that the evidence led by the petitioner was not even being adverted to, much less, any analysis of the evidence. The Labour Court ought not to have decided the case so casually or lightly.

5. In view of the above, this writ petition is partly allowed.

The impugned judgment dated 20.08.2008 is quashed and set aside with the following directions:

- (a) Application (IDA) No.4 of 2006 stand relegated to the file of the Labour Court, Jalna.
- (b) Both the litigating parties shall appear before the Labour Court, Jalna on 25th March, 2022. Separate notice need not be issued by the Labour Court.
- (c) Respondent is at liberty to cross examine the petitioner /applicant and to lead oral evidence.

- (e) After recording of evidence is concluded and after the litigating parties advance their oral submissions, the Labour Court shall deliver its judgment considering the pleadings of the parties and the oral/documentary evidence adduced before it.
- (f) Since the original proceeding is of the year 2006, it is expected that the litigating parties would render wholehearted cooperation to the Labour Court and any adjournment sought on trivial or unreasonable ground shall be rejected by the Labour Court and cost may be imposed.
- (g) The Labour Court shall decide the proceedings as expeditiously as possible and in any case, on or before 30.09.2022.

(RAVINDRA V. GHUGE, J.)

JPC