

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

WRIT PETITION NO.3791 OF 2020

GORAKH DHONDIBA KADAM
VERSUS
THE DEPUTY DIRECTOR SOCIAL FORESTRY DIVISION OSMANABAD

...
Advocate for the Petitioner : Shri Shelke Avishkar S.
AGP for the Respondents : Shri N.T. Bhagat
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 09th March, 2022

Per Court:

1. Leave to add the competent authority under the Minimum Wages Act, 1948- cum- Assistant Labour Commissioner, Latur, as respondent No.2. Addition be carried out forthwith. Issue notice to respondent No.2. The learned AGP causes an appearance and waives service of notice on behalf of respondent No.2.

2. The petitioner is aggrieved by the order dated 20.11.2017 passed by the Competent Authority under the Minimum Wages Act, 1948- cum- Assistant Labour Commissioner, Latur.

3. I have considered the submissions of the learned advocate for the petitioner and the learned AGP on behalf of the respondents. With their assistance, I have gone through the petition paper book.

4. There is no doubt that the first and second proviso below Section 20(2) of the Minimum Wages Act, 1948 provides for limitation of six months for filing an application with regard to the grievance of non payment of minimum wages and for condonation of delay. The petitioner had moved the application dated 24.12.2014, which is at page 26 of the petition paper book, praying for condonation of delay. By a single word order "O-Granted", the delay was condoned. The respondent Department has not challenged the said order.

5. In the above backdrop, the competent authority was duty bound to consider as to when was the Social Forestry Department declared as a scheduled employment under the Minimum Wages Act and the date of appointment of the petitioner, which is 01.05.1985 as a Forest Guard. The moment the Minimum Wages Act became applicable, the competent authority had to compare the wages actually paid and those which were payable under the Minimum Wages Act. The difference of unpaid wages was, therefore, to be calculated so as to direct the Department to make such payment. Taking into account the delay of about 13 to 14 years, the petitioner can be deprived of the interest component. However, by the impugned order, the competent authority has dealt with the application as if it is dealing with the application for condonation of delay and did not cause an interference on the ground that the application is filed beyond limitation. It appears that the competent authority lost

sight of the fact that the delay was already condoned by a single word order on the application dated 24.12.2014.

6. In view of the above, this Writ Petition is partly allowed and the impugned order is set aside. The application bearing No.5/2014 is restored to the file of the competent authority under the Minimum Wages Act, 1948 -cum-Assistant Labour Commissioner at Latur, with the following directions:-

(a) Respondent No.2 shall verify whether, the order "O-Granted" has been passed by the then Assistant Labour Commissioner.

(b) If the delay has been condoned by the above stated order, he would consider the application filed by the petitioner on it's own merits by taking into account the minimum wages applicable to Class IV unskilled employees and if the petitioner has made out a good case, shall direct the payment of difference in wages.

(c) The proceedings shall be decided by the competent authority preferably on or before 30.07.2022.

(d) The petitioner shall appear before the competent authority on 28.03.2022 at 12:00 noon and no notice is required to be issued.

(e) The petitioner, if succeeds, shall be deprived of the interest component, for the period of delay.