

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

WRIT PETITION NO. 4766 OF 2021

Madhusudan Govindrao Kulkarni

vs.

M/s. Dainik Matrubhumi, managed by Padma Pratisthan Partnership firm

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Ved Deshpande, Advocate for petitioner.
Mr. Palash Mohta, Advocate for sole respondent.

CORAM : MANISH PITALE J.

DATE : 21/09/2022

By this petition, the petitioner has challenged order dated 05/10/2021, passed by the Labour Court at Akola in Reference (IDA) No. 01 of 2020, whereby an application moved by the respondent for discarding certain portion of the affidavit in lieu of examination in chief filed by the petitioner was allowed, as a consequence of which paragraph Nos.5 and 6 of the affidavit were directed to be excluded from evidence. The learned counsel for the petitioner submits that the petitioner is before the Labour Court seeking benefits of the Manisana Commission and in that regard sufficient statements

have been made in the statement of claim before the Labour Court.

2. It is submitted that in paragraphs 5 and 6 of the aforesaid affidavit, the petitioner had given table and calculation towards the details of the final benefits to which according to him, he is entitled upon application of the recommendations of the Manisana Commission. It is submitted that when sufficient pleadings were available in the statement of claim, the Labour Court erred in allowing the application moved by the respondent and discarding paragraphs 5 and 6 of the affidavit.

3. The learned counsel appearing for the respondent opposed the contentions raised on behalf of the petitioner and supported the impugned order passed by the Labour Court.

4. A perusal of the impugned order would show that the reasoning is found in paragraph 7 and after referring to the details of paragraphs 5 and 6 of the aforesaid affidavit filed on behalf of the petitioner, it is recorded that the petitioner has absolutely not pleaded facts and figures stated in the tables found in paragraphs 5 and 6 of the affidavit and other facts relating to calculation of dearness

allowance in the statement of claim and that therefore, the said paragraphs deserve to be discarded from the affidavit in evidence.

5. The aforesaid approach adopted by the Labour Court is clearly erroneous, for the reason that the statements and details of calculations given in paragraphs 5 and 6 of the affidavit in evidence of the petitioner are in furtherance of specific pleadings regarding such relief towards dearness allowance sought in the statement of claim. As long as there is substratum in the statement of claim for placing the details in the affidavit in evidence, it cannot be said that the contents of the paragraphs 5 and 6 of the affidavit deserve to be discarded.

6. In view of the above, it is found that the impugned order is unsustainable. Accordingly, the Writ Petition is allowed. The impugned order dated 05/10/2021, passed by the Labour Court is quashed and set aside. The application filed by the respondent is dismissed.

7. The Labour Court shall now proceed further in accordance with law.

Digitally signed byRAVIKANT
CHANDRAKANT KOLHE
Signing Date:23.09.2022
17:19

JUDGE