

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7053 OF 2021

Yamuna Raosaheb Zende
Age: 50 years, Occu.: Labour,
R/o. At – Farm Quarter,
Post – Krushi Vidyapeeth,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7045 OF 2021

Devram Nana Kolpe
Age: 67 years, Occu.: Labour,
R/o. At - Nandgaon, Post – Shingve Naik,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7046 OF 2021

Changdev Eknath Thorat
Age: 54 years, Occu.: Labour,
R/o. At - Babhulgaon, Post – Mulanagar,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7048 OF 2021

Bhimraj Nandev Tamnar
Age: 68 years, Occu.: Labour,
R/o. At – Tamnar Aakhada, Rahuri Bd.,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7049 OF 2021

Gayabai Bhausahab Waghmare
Age: 75 years, Occu.: Labour,
R/o. At - Babhulgaon, Post – Mulanagar,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7050 OF 2021

Sudam Tukaram Handal
Age: 57 years, Occu.: Labour,
R/o. At - Tandulwadi,
Post – Rahuri Station, Tq. Rahuri,
Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

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WITH

WRIT PETITION NO. 7051 OF 2021

Sakharam Savleram Shingade
Age: 58 years, Occu.: Labour,
R/o. At - Varvandi, Post – Mulanagar,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7052 OF 2021

Indubai Pilaji Davhan
Age: 72 years, Occu.: Labour,
R/o. At - Babhulgaon, Post – Mulanagar,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7055 OF 2021

Machindra Kaka Kadam
Age: 55 years, Occu.: Labour,
R/o. Varvandi, Post – Mulanagar,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7056 OF 2021

Bhagirathi Sitaram Wagh
Age: 72 years, Occu.: Labour,
R/o. At Post – Krushi Vidyapeeth,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar

.... Respondent

WITH

WRIT PETITION NO. 7157 OF 2022

Vithabai Barku Shirsath
Age: 59 years, Occu.: Labour,
R/o. At – Khadmaba Budruk,
Post – Khadambe, Tq. Rahuri
Rahuri, Dist. Ahmednagar

.... Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar

.... Respondent

WITH

WRIT PETITION NO. 7158 OF 2022

Eknath Jijaba Thorat
Age: 78 years, Occu.: Labour,
R/o. At Post – Dhamori Khurd,
Tq. Rahuri, Dist. Ahmednagar

.... Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar

.... Respondent

WITH

WRIT PETITION NO. 7159 OF 2022

Parighabai Bhausahab Harishchandre
Age: 75 years, Occu.: Labour,
R/o. At - Khadambe, Post – Khadambe,
Tq. Rahuri, Dist. Ahmednagar

.... Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
 Rahuri, Tq. Rahuri, Dist. Ahmednagar
 Through its Registrar

.... Respondent

WITH

WRIT PETITION NO. 7160 OF 2022

Jijabai Dhondiba Waghmare
 Age: 63 years, Occu.: Labour,
 R/o. At - Babhulgaon, Post – Mulanagar,
 Tq. Rahuri, Dist. Ahmednagar

.... Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
 Rahuri, Tq. Rahuri, Dist. Ahmednagar
 Through its Registrar

.... Respondent

WITH

WRIT PETITION NO. 7161 OF 2022

Narayan Haribhau Girgune
 Age: 82 years, Occu.: Labour,
 R/o. At Post – Rahuri Budruk,
 Tq. Rahuri, Dist. Ahmednagar

.... Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
 Rahuri, Tq. Rahuri, Dist. Ahmednagar
 Through its Registrar

.... Respondent

WITH

WRIT PETITION NO. 7162 OF 2022

Tarabai Ambadas Garde
 Age: 62 years, Occu.: Labour,
 R/o. At - Warwandi, Post – Mulanagar,
 Tq. Rahuri, Dist. Ahmednagar

.... Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
 Rahuri, Tq. Rahuri, Dist. Ahmednagar
 Through its Registrar

.... Respondent

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WITH

WRIT PETITION NO. 7163 OF 2022

Devram Barku Harishchandre
Age: 61 years, Occu.: Labour,
R/o. At Post – Khadambe Khurd,
Tq. Rahuri, Dist. Ahmednagar

.... Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar

.... Respondent

WITH

WRIT PETITION NO. 7164 OF 2022

Suman Shamkant Salunke
Age: 65 years, Occu.: Labour,
R/o. At Post – Rahuri Budruk,
Tq. Rahuri, Dist. Ahmednagar

.... Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar

.... Respondent

WITH

WRIT PETITION NO. 7165 OF 2022

Manda Babasaheb Pathare
Age: 57 years, Occu.: Labour,
R/o. At Post – Khadambe Khurd,
Tq. Rahuri, Dist. Ahmednagar

.... Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar

.... Respondent

WITH

WRIT PETITION NO. 7166 OF 2022

Shevantabai Tukaram Buchude
Age: 85 years, Occu.: Labour,
R/o. At – Digras, Post – Vidyapeeth,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7167 OF 2022

Rangnath Laxman Jangale
Age: 72 years, Occu.: Labour,
R/o. At – Digras, Post – Krushi Vidyapeeth,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7168 OF 2022

Prakash Mahadu Londhe
Age: 52 years, Occu.: Labour,
R/o. At Post – Alsunde
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

WITH

WRIT PETITION NO. 7177 OF 2022

Shantabai Raghunath Zine
Age: 68 years, Occu.: Labour,
R/o. At – Digras, Post – Krushi Vidyapeeth,
Tq. Rahuri, Dist. Ahmednagar Petitioner

Versus

Mahatma Phule Krishi Vidyapity,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
Through its Registrar Respondent

.....
Mr. Parag Vijay Barde, Advocate for the Petitioners in all WPs
Mr. Parag Shahane, Advocate for the Respondent in all WPs
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

RESERVED ON : 10th MARCH, 2023

PRONOUNCED ON : 27th APRIL, 2023

JUDGMENT :

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

2. By these petitions, filed under Articles 226 and 227 of the Constitution of India, the petitioners challenge the judgment and order dated 20/07/2020 passed by the learned 2nd Labour Court, Ahmednagar in applications filed by the petitioners, to the extent of granting interest amount on leave wages from the date of applications. The petitioners seek interest at the rate of 6% on amount of leave wages from 01/04/2001.

3. Union raised a dispute on behalf of workers, who were working with the respondent seeking permanency benefits. The dispute was referred for adjudication to the Industrial Court.

4. In Reference (IT) No.48 of 1981, learned Industrial Court, Pune passed award on 31/12/1984, thereby granting various benefits to the temporary employees. One of the major benefits granted was that the employees who have completed three years continuous service and worked for 240 days in every year would be entitled for leave wages. The said leave wages can be accumulated up to 300 days, and at the end of service leave can be encashed. This award was maintained by the High Court.

5. The said award was challenged before the Apex Court, and it was confirmed by the Apex Court by way of reported judgment in ***Mahatma Phule Agricultural University and others Vs. Nasik Zilla Sheth Kamgar Union and others; AIR 2001 SC 3228***. It was held that some of the daily wagers working in Agricultural Universities raised a dispute, and award was passed granting them higher rates of wages. The said award would apply even to daily wagers not covered by the award, in view of the principles of equal pay for equal work.

6. Union filed Contempt Petition Nos.350 to 398 of 2003 in the Supreme Court. By order dated 30/08/2004, the Union and workers were allowed to approach the Industrial Court for redressal of their grievances.

7. Accordingly, Union filed four complaints bearing ULP Nos. 106/2004, 109/2004, 118/2004 and 129/2004, seeking benefits of the award in terms of the order passed by the Apex Court, claiming the benefit of leave encashment along with interest. By common judgment and order dated 09/01/2014, all four complaints were allowed by the Industrial Court, thereby granting leave encashment to the workers of 240 days with 6% interest from the date on which the amount became due.

8. The judgment of the Industrial Court was challenged by both the parties by filing Writ Petitions. This Court, vide order dated 29/07/2015 passed in Writ Petition No.1722 of 2014 and connected matters, modified the directions of the Industrial Court and granted leave encashment to the extent of 300 days instead of 240 days. Rest of the order of Industrial Court is maintained.

9. The petitioners, thereafter, filed applications under Section 33-C(2) of the Industrial Disputes Act for arrears of leave wages with 6% interest with effect from the date on which the respondent retrenched petitioners from employment, i.e. from 01/04/2001.

10. The respondent resisted the said applications of the petitioners by filing written statement.

11. Labour Court, Ahmednagar by order dated 20/07/2020, granted arrears of leave wages to the petitioners, but granted interest only from the date of applications and not from 01/04/2001. The petitioners are aggrieved by the said order of granting interest from the date of application and not from the date of their retrenchment i.e. from 01/04/2001.

12. Heard the learned advocate for the petitioners and learned advocate for the respondent. Perused the writ petition memo, annexures thereto, documents tendered by the petitioners, impugned orders and the citations relied on by both the sides.

13. Learned advocate for the petitioners by relying on the list annexed to the complaints bearing ULP Nos. 106/2004, 109/2004, 118/2004 and 129/2004, pointed out that the

names of the petitioners appear at various serial numbers of the said complaints.

14. Admittedly, four complaints filed by the Union on behalf of the petitioners and other similarly situated workers were allowed by order dated 09/01/2014, the said decision was challenged before this Court in Writ Petition No.1722 of 2014 and other connected writ petitions, wherein this Court has given following directions:

"The University Management is directed to scrupulously verify from the record the completion of 240 days in three consecutive years strictly in accordance with their charts Exhibit "X" and similar other documents, which were placed before the Industrial Court as well as this Court and pay encashment of earned leave to the eligible persons from their first year of completion of 240 days, subject to the maximum accumulation of 300 days, to be calculated at the rate of their last drawn monthly wages.

(D) Rest of the directions in Clause 1, 2 and 4 are maintained.

(E) In the event any employer has completed 239 days, he shall be construed to have completed 240 days.

(F) Needless to state that the modified directions as above and the directions of the Industrial Court sustained by this judgment shall be implemented expeditiously and preferably within a period of five months from today."

15. In view of the aforesaid directions, the respondent was duty bound to release the said benefit in favour of the petitioners and other workers. However, the respondent has failed to release the said benefit.

16. The Labour Court denied interest to the petitioners from the date of retrenchment holding that the petitioners have belatedly approached in the year 2019. The said approach is erroneous and unsustainable to the facts of the present case.

17. Admittedly, since four complaints filed by the Union were allowed, and this Court upheld the said order and directed the respondent to pay interest at the rate of 6% on the amount of leave encashment of 300 days from the date on

which the said amount became due i.e. with effect from 01/04/2001, which is the date of retrenchment. It was the duty of the respondent to implement the said direction and timely give the said benefit to the petitioners. Since the respondent has failed to do so, the workers were constrained to approach the Labour Court. The said benefit is already given to similarly situated workers.

18. The Labour Court has ignored all these relevant factors while granting interest to the petitioners from the date of their applications. The approach of the Labour Court in denying interest to the petitioners from the date of their retrenchment is erroneous, irrational and arbitrary.

19. The Labour Court has failed to consider that the respondent has failed in its duty to extend the said benefit to the petitioners in view of directions of this Court, and the petitioners cannot be blamed for approaching belatedly to the Labour Court, on account of failure of the respondent to give benefit to them. Since the Labour Court has adopted discriminatory approach in refusing interest to the petitioners, which was granted to similarly situated workers, the impugned order is vitiated on that count also.

20. In ***Mahatma Phule Agricultural University*** (supra), it is held:

"17. As set out hereinabove, the Award was in respect of approximately 2,000 workmen. As regards the other remaining workmen (except for 127 workmen covered by the Award dated 1st April, 1985) who are not covered by the Award the principles of equal pay for equal work would apply. Neither Mr. Bobde nor Mr. Ashwini Kumar could dispute that as between daily wagers the principles of equal pay for equal work would apply. Therefore, the rest of the workers would also become entitled to payments and benefits as given under the Award dated 20th February, 1985 in (IT) No. 48 of 1981. There is no justification in the Universities in not making payments and giving those benefits to the remaining workers on the same basis. We, therefore, direct that the benefits of the Award dated 20th February, 1985 in (IT) No.48 of 1981 be given even to the workmen who were not covered by the said Award (except the: 127 workmen covered by Award dt. 1st April 1985 in (IT) No. 27 of 1984). Even in respect of these workmen Universities shall forthwith work out the amounts payable and pay the same."

21. In ***K. Ajit Babu and others Vs. Union of India and others; AIR 1997 SC 3277***, the Apex Court has observed:

"Often in service matters the judgments rendered either by the Tribunal or by the court also affect other persons, who are not parties to the cases. It may help one class of employees and at the same time adversely affect another class of employees. In such circumstances the judgments of the Courts or the Tribunals may

not be strictly judgments in personam affecting only the parties to the cases, they would be judgments in rem.

22. In view of the aforesaid observations and directions issued by this Court in Writ Petition No.1722 of 2014 and connected writ petitions, the Labour Court committed an error in refusing interest with effect from 01/04/2001 to the petitioners, though the same is granted in favour of similarly situated workers. The reasons given by the Labour Court are unacceptable, and hence the impugned judgment and order of the Labour Court to the extent it denies interest at the rate of 6% on leave encashment of 300 days with effect from 01/04/2001, is unsustainable in the law and facts of the case.

23. Learned advocate for the respondent, while opposing the petition, relied on the decision of learned Single Judge of this Court in ***P.K. Anna Patil Janta Sahakari Bank Limited Vs. Rajan Vishnu Chauk and others; 2020(5) ABR 307***. In this decision, the learned Single Judge of this Court denied the interest, holding that the workers were actually fence sitters and were watching the proceedings. The said decision is rendered in different facts and is not helpful to the case of the respondent.

24. In the case in hand, in terms of the Apex Court decision, and this Court directions, the respondent was duty bound to pay interest at the rate of 6% per annum on leave encashment to the petitioners/workers, as was paid to the other similarly situated workers.

25. In *Raju Manohar Masram Vs. M/s. Sadiq and Co. Engineers & Builders Construction Pvt. Ltd.; (2019) 3 CLR 893*, the learned Single Judge of this Court held that, "*the employee was deprived of the legitimate claim without any justification, directed the employer to pay the interest on the amount receivable by the employee. The employee is entitled for interest amount receivable by him for the unjustified delay on the part of the employer in paying the amount.*"

26. In *Prabhakar Kisan Magar Vs. The Divisional Railway Manager, Western Railway; SCC OnLine Bom. 20252*, the learned Single Judge of this Court has observed:

"4. ... The question of law that arises is whether the Labour Court has power under Section 33-C(2) to order an employer to pay the employee interest for the period between the date of an order of a Court or Tribunal or authority for payment and the date of payment.

I have answered the question in the affirmative upholding the claim for interest in such cases on

four grounds - under Sections 3(1) (a) and (b) and 4 of the Interest Act, 1978, and in exercise of powers under Article 226 of the Constitution of India. A view to the contrary would lead to a total miscarriage of justice and disastrous consequences not merely in this matter but for bona-fide and innocent employees in general. It would put a premium on an employer disregarding orders of Courts, Tribunals and other authorities. Worse still, it would encourage an employer to refuse payments under such orders for as long as possible, rendering them virtually meaningless."

27. In ***Central Inland Water Trnasport Corporation Ltd. Vs. The Workmen and another; AIR 1974 SC 1604***, the Apex Court while considering the scope of Section 33-C(2), has observed:

"This calculation or computation follows upon an existing right to the money or benefit, in view of its being previously adjudged, or, otherwise, duly provided for. In a suit, a claim for relief made by the plaintiff against the defendant involves an investigation directed to the determination of (i) the plaintiff's right to relief; (ii) the corresponding liability of the defendant, including, whether the defendant is, at all, liable or not; and (iii) the extent of the defendant's liability, if any. The working out of such liability with a view to give relief is generally regarded as the function or an execution proceeding. Determination No. (iii) referred to above, that is to say, the extent of the defendant's liability may sometimes be left over for determination in

execution proceedings. But that is not the case with the determinations under heads (i) and (ii). Since a proceeding under section 33(C)(2) is in the nature of an execution proceeding it should follow that an investigation of the nature of determinations (i) and (ii) above is, normally, outside its scope. It is true that in a proceeding under section 33(C)(2), as in an execution proceeding, it may be necessary to determine the identity of the person by whom or against whom the claim is made if there is a challenge on that score. But that is merely 'Incidental'. Therefore, when a claim is made before the Labour Court under section 33(C)(2) that Court must clearly understand the limitations under which it is to function. It cannot arrogate to itself the functions-say of an Industrial Tribunal which alone is entitled to make adjudications in the nature of determinations (i) and (ii) referred to above, or proceed to compute the benefit by dubbing the former as 'Incidental' to its main business of computation. In such cases determinations (i) and (ii) are not 'Incidental' to the computation. The computation itself is consequential upon and subsidiary to determinations (i) and (ii) as the last stage in the process which commenced with a reference to the Industrial Tribunal."

The aforesaid ratio support the case of the petitioners.

28. In view of aforesaid discussion, the petitions deserve to be allowed. Hence, the following order:

ORDER

(I) Writ Petitions are allowed.

(II) The impugned order to the extent it directs grant of interest to the petitioners from the date of filing their applications is hereby quashed and set aside.

(III) The respondent is directed to pay interest on leave encashment amount of 300 days to the petitioners with effect from the date on which the amount of leave encashment became due or from the date of petitioners/workers retrenchment, i.e. with effect from 01/04/2001, whichever is applicable.

Rule is made absolute in above terms. No costs.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane