

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

WRIT PETITION NO. 6756/2018

ABDUL SHAKIR ABDUL HAHIZ

VS

JAINBUNBI AK. BASHIR (DISMISSED) AND ORIENTAL INSURANCE CO. LTD.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.S. Patil, Advocate for the petitioner
The petition is dismissed against respondent no. 1
Ms. Anita Mategaonkar, Advocate for respondent no. 2

CORAM : A. S. KILOR, J.

DATED : 26/06/2023

Heard.

2. The judgment and impugned order dated 20.04.2018 rejecting an application filed under Section 22 of the Workmen's Compensation Act, 1923 (for short the "Act of 1923") for grant of compensation by the Commissioner under the Employees Compensation Act, Labour Court, Amravati, is under challenge in this writ petition.

3. The only ground on which the application was rejected was that despite the sufficient opportunity, the petitioner failed to adduce evidence and establish that he has suffered disability in the alleged accident.

4. The learned Counsel for the petitioner submits that if one opportunity is granted to him, he will produce the evidence and establish the fact about the accident as well as disability suffered by him.

5. On the other hand, the learned Counsel for the respondent no. 2 is strongly opposing the present writ petition on the ground that despite the fact that the sufficient opportunity was granted to the petitioner, he failed to adduce any evidence in support of his case.

6. In the light of the rival contentions, I have perused the record and the impugned order. The learned Labour Court while rejecting the application has not given the details as regards the opportunity given to the petitioner to lead evidence. The Court has only observed that after 2014 the petitioner failed to adduce evidence. There is no date or details are given by the learned Labour Court on which, the matter was fixed for his evidence and whether it was adjourned at the instance of the petitioner or for some other reason so as to arrive at the conclusion that it was the petitioner who was at fault. In the absence of such findings or details given in the impugned order, I am of the opinion that an opportunity needs to be given to the petitioner considering the relief the petitioner is seeking under the provision of the beneficial legislation i.e. the Workmen's Compensation Act, 1923. Accordingly, I pass the following

order:

(I) The writ petition is **partly allowed**.

(II) The judgment and order dated 20.04.2018, passed by the Commissioner under the Employees Compensation Act, Labour Court, Amravati, is hereby quashed and set aside.

(III) The matter is remanded back to the learned Labour Court, Amravati for deciding the same afresh after giving sufficient opportunity to both the parties.

(IV) Both the parties shall appear before the learned Labour Court, Amravati on **05.07.2023**. The petitioner shall adduce the evidence in support of his claim within one month thereafter and the learned Labour Court shall decide the claim of the petitioner within three months thereupon.

(V) All points are kept open.

7. Accordingly, the writ petition is disposed of.

JUDGE