



IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

922 WRIT PETITION NO. 10242 OF 2023

Sonba Laxman Vitekar

....Petitioner

VERSUS

The Sarpanch

Grampanchayat Rakshaswadi & others .....Respondents

Mr. D. R. Jayabhar, Advocate for the Petitioner

Mr. A. N. Sabnis, Advocate for Respondents.

**CORAM : R. M. JOSHI, J.**

DATE :20<sup>th</sup> JULY, 2024.

PER COURT :

1. Petitioner is a workman who has filed application bearing No. 29/2020 under Section 33(C)(2) of Industrial Disputes Act which came to be rejected by the impugned order dated 14.11.2022. Hence, this Petition.

2. Petitioner was an employee of Respondent Gram Panchayat Rakshaswadi, Dist. Ahmednagar. It is his case that since year 1990, minimum wages of Rs. 500/- were due and payable to the employees of Gram Panchayat. Thereafter all employees are entitled for the special allowance from the year 2007. He also claims that he is entitled for earned leave encashment and difference of wages.

3. There is no written statement filed by Respondents to this application. No dispute is made with regard to the claim made by the Petitioner.

4. Learned Trial Court, however, has rejected the application by holding that such application ought to have been filed within one year of entitlement and for that sake reliance is placed on provisions of Section 33(C)(1) of the Industrial Dispute Act. It is also held that there is no pre-existing right in favour of the applicant to entertain the application. Hence, the application is dismissed.

5. Learned counsel for Petitioner submits that the Respondents are not disputing the entitlement of applicant and hence question of adjudication into the said right does not arise. It is his submission that provisions of Section 33(C)(1) of the Act are wrongfully considered by the Trial Court to hold that the application is not filed within a year of entitlement and hence it is not maintainable. Thus, according to him, it is a fit case to set aside the order and relegate the matter back to the Respondents for decision on merit.

6. Learned counsel for Respondents though submits that the applicant can only execute pre-existing rights under the provisions of Section 33(C)(2) of the Act, according to him, there is nothing on record to indicate that such right existed in his favour.

7. Learned Labour Court has dismissed the application for the reason that the same is not filed within one year of the entitlement. In order to support this finding reference is made to Section 33(C)(1) of the Industrial Dispute Act, which reads thus :-

**33C. Recovery of money due from an employer**

(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of 2[Chapter VA or Chapter VB] the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer:

Perusal of this provision shows that it is open for workman to make an application to appropriate Government and a certificate of recovery could be issued. For this application one year period is prescribed. This provision is misapplied by Court in present case which is filed under Section 33(C)(2) of the Act. Any application made to the Labour Court under this provision would not be governed by Section 33(C)(1).

8. Section 33(C)(2) of the Act empowers a Labour Court to entertain application filed by a workman for computation of money and though the time is prescribed therefor is 3 months, proviso permits the Court to condone delay, if any.

9. Perusal of the application shows that the applicant is not seeking adjudication of any right claiming existing right as per his contention of difference of wages, earn leave wages and other allowances. Since there is no written statement filed by the

Respondents, the claim has gone uncontroverted. Nothing therefore remains for Labour Court for adjudication. The Labour Court is however required to consider the calculations made by the applicant and to pass appropriate order.

10. Having regard to the above discussion, impugned order cannot sustain. Hence, it is set aside. Application IDA No. 929/2020 is relegated back to the Labour Court for decision afresh from the stage at which the impugned order was passed.

**( R. M. JOSHI)**  
**Judge**

dyb