



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

950 WRIT PETITION NO. 6884 OF 2015

TRAMBAK VIKRAM BAKALE

VERSUS

TERNA CO OP SUGAR FACTORY LTD, OSMANABAD AND OTHERS

...

Advocate for the Petitioner :

Mr. Ashutosh S. Kulkarni h/f. Mr. Bhise Bhausaheb B
Advocate for Respondent No.1 : Mr. Hiraji T. Gaikwad

...

WITH

WRIT PETITION NO. 6882 OF 2015

DNYANOBA NARAYAN LANDGE

VERSUS

TERNA CO OP SUGAR FACTORY LTD, OSMANABAD AND OTHERS

...

Advocate for the Petitioner :

Mr. Ashutosh S. Kulkarni h/f. Mr. Bhise Bhausaheb B
Advocate for Respondent No.1: Mr. Hiraji T. Gaikwad

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 22nd MARCH, 2024

PER COURT:

1. Heard.
2. Both the writ petitions are heard together and facts of Writ Petition No.6882 of 2015, are as under:-
3. Mr. Ashutosh S. Kulkarni holding for Mr. Bhise Bhausaheb B., learned counsel for the petitioners has taken me through

the impugned order passed by the Labour Court, Latur for recovery of due amounts initiated under section 33 (C) of the Industrial Disputes Act. The learned counsel has particularly relied on para 7 of the reasons of the order as under:-

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“7] Though, the applicant coming with a case that, there is balance salary of Rs.5,47,975/- against the respondent which has not been paid by the respondent though repeatedly requested and demanded by him, but the applicant has given during course of his cross that, there is only balance amount of Rs.2,27,423.16/- remain with the respondent it means that, there is no balance amount of Rs.5,47,975/- and only remaining amount of Rs.2,27,423.16/- is balance. Under such circumstances, the claim for recover of Rs.5,47,975/- made by the applicant is found to be false in view of own admission given by the applicant, hence I found that there is only Rs.2,27,423.16/- is remain with the respondent in respect of balance salary of applicant and not amount of Rs.5,47,975/-, hence the applicant is only entitled to get the amount of Rs.2,27,423.16/- from respondent as he has proved his claim to that event, hence for the reasons stated above I answer to above Issue No.1 & 2 in partly affirmative and proceed to pass following order.”

4. In the order, it is mentioned at para 7 that the petitioner has admitted that only Rs.2,27,423.16/- was due from the respondent employer and not Rs.5,47,975/- and, as such, the Labour Court, Latur proceeded to pass the order only on the admitted amount of Rs.2,27,423.16/-. However, the learned counsel has taken me to the cross examination of the applicant, as under:-

“... हे म्हणणे खरे नाही कि, सामनेवाला हे माझ्या सर्व देयकांपैकी फक्त रक्कम रु. २,२७,४२३.९६ पै. देणे लागतात व मी सांगतो त्याप्रमाणे रु. ५,४७,९७५ देणे लागत नाही.”

5. Similarly the facts in Writ Petition No.6884 of 2015 are as under:-

Mr. Ashutosh S. Kulkarni holding for Mr. Bhise Bhausahab B., the learned counsel particularly relied on para 7 of the reasons of the order as under:-

WRIT PETITION NO.6884 OF 2015

“7] Though, the applicant coming with a case that, there is balance salary of Rs.5,07,421/- against the respondent which has not been paid by the respondent though repeatedly requested and demanded by him, but the applicant has given own admission during course of his cross that, there is only balance amount of Rs.1,16,967.33/- remain with the respondent it means that, there is no balance amount of Rs.5,07,421/- and only remaining amount of Rs.1,16,967.33/- is balance. Under such circumstances, the claim for recover of Rs.5,07,421/- made by the applicant is found to be false in view of own admission given by the applicant, hence I found that there is only Rs.1,16,967.33/- is remain with the respondent in respect of balance salary of applicant and not amount of Rs.5,07,421/-, hence the applicant is only entitled to get the amount of Rs.1,16,967.33/- from respondent as he has proved his claim to that event, hence for the reasons stated above I answer to above Issue No.1 & 2 in partly affirmative and proceed to pass following order.”

Mr. Ashutosh S. Kulkarni holding for Mr. Bhise Bhausahab B., the learned counsel has taken me to the cross examination of the applicant, as under:-

“... हे म्हणणे खरे नाही कि, सामनेवाला हे माझ्या सर्व देयकांपैकी फक्त रक्कम रु. १,१६,९६७.३३ पै. देणे लागतात व मी सांगतो त्याप्रमाणे रु. ५,०७,४२१ देणे लागत नाही.”

6. Perusal of the cross-examination of the applicant in both the complaints would indicate that they have not admitted that Rs.5,47,975/- and Rs.5,07,421/-, in respective petitions, are not due, rather the answer indicates that the question posed is answered in negative, the effect of which is that there is no admission that Rs.5,47,975/- and Rs.5,07,421/- in respective petitions are not due. As such, the Labour Court has completely misread the evidence of the applicants.

7. The learned counsel submits that the matters be remitted back for re-consideration to the Labour Court, Latur, in view of the misreading of evidence of the applicants.

8. The learned counsel appearing for the respondent / liquidator submits that there would be a legal impediment to the proceedings to proceed ahead with the matter as the liquidator is appointed and permission of the Registrar is required under Section 107 of the Maharashtra Co-operative Societies Act, 1960 to continue the proceedings.

9. Having considered the submissions, the impugned orders are quashed and set aside and the matters are remitted back for fresh

consideration. All objections / legal impediment can be raised before the Labour Court, Latur and the court at Latur to proceed in accordance with law to decide the claim of the applicants.

10. The Writ Petitions are disposed of accordingly.

11. If there is no legal impediment, the Labour Court, Latur to expedite the proceedings and decide the proceedings within a period of three (03) months after all legal compliances are made.

[ARUN R. PEDNEKER, J.]

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