



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

1036 WRIT PETITION NO. 3393 OF 2023

WITH

WRIT PETITION NO. 3418 OF 2023

WITH

WRIT PETITION NO. 3395 OF 2023

WITH

WRIT PETITION NO. 3417 OF 2023

WITH

WRIT PETITION NO. 3419 OF 2023

VISHWANATH KUNDLIK TARGE

VERSUS

THE MANAGING DIRECTOR SAMARTH SAHKARI SAKHAR KARKHANA
LTD

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Advocate for the Petitioners : Mr. Shinde Manoj Dharmaraj

Advocate for Respondent No. 1 : Mr. P.P. Shahane h/f Mr. Deshmukh
Suresh K.

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 11.12.2025

PER COURT :

1. Heard Mr. Shinde Manoj Dharmaraj, the learned Counsel for the Petitioners and Mr. P.P. Shahane h/f Mr. Deshmukh Suresh K., for respondent No. 1.

2. By way of the present petition, the petitioners are assailing the orders dated 09.03.2022 passed below Exh.O-3 by the learned Labour Court, Jalna in Application (IDA) Nos. 29 of 2017, 08 of 2018, 31 of 2017, 09 of 2018 and 30 of 2017, whereby, the complaints filed by the petitioners came to be dismissed on the ground that there was no employer and employee relationship between them and petitioners had

already retired from their services. The learned Labour Court held that the petitioners are not entitled for claiming retention allowances. It also held that their complaints were not maintainable under Section 33C (2) the Industrial Disputes Act, 1947 (for short “the Act”).

3. The facts in nutshell are that the petitioners were employees of Respondent No. 1- Sugar Factory, who retired from services but their retention allowances were due towards the Sugar Factory. Therefore, they filed complaints before the learned Labour Court, Jalna.

4. After receiving the summons the respondent Sugar Factory appeared in the matter and raised objection about the maintainability of the petitions. The learned Labour Court dismissed the complaints filed by the petitioners and against such dismissal the present petitions are filed.

5. He further submits that the amount was payable under the Government Policy and only because the petitioners stood retired from the service, it does not mean that they are not entitled for receiving the retention allowances. In support of his contention he relied on following citations :

“(I) Management of the Tiruchi Srirangam Transport Co. Pvt. Ltd. Vs. Labour Court, Madurai & Another- reported in AIR 1961, Madras 307,

(ii) The Central Bank of India Vs. P.S. Rajgopalan, AIR 1964 SC 743,

(iii) National Buildings Construction Corp. Ltd. Vs. Pritam Gill and Others, reported in AIR 1972 SC 1579,

(iv) A. Satyanarayan Reddy and others Vs. Presiding Officer, Labour Court & Others reported in AIR 2016 SC 4556,

(v) Prabhakar Kisan Magar V. Divisional Railway Manager, Western Railway, Mumbai Central, Mumbai - reported in 2022 (173) F.L.R. 925,

(vi) Harayana State Minor Irrigation and Tube Wells Corporation Ltd. And Anr. Vs. The Presiding Officer, Labour Court – Cum- Industrial Tribunal U. T. Chandigarh & Anr. -reported in 2025 LabLR 253,

(vii) Town Municipal Council, Athani Vs. Presiding Officer, Labour, Hubli and Others. reported in AIR 1969 SC 1335.”

6. Per Contra, Mr. Shahane, learned Counsel appearing for respondent Sugar Factory submits that the employees stood retired from the service and there was no employer-employee relationship between them. Once the employee stood retired from service, the employer-employee relationship between them ceased to exist. Therefore, the complaints itself were not be maintainable before the Labour Court. He further submits that the Complainants ought to have approached the Labour Commissioner to adjudicate their claims of retention allowances under Section 33C of the Act and Labour Commissioner had an option to forward the reference under Section 10 of the Act to the Labour Court.

7. He further submits that the Labour Court has rightly considered the matter. In support of his argument he relied upon the citations :

(i) Premier Automobiles Vs. PAL VRS EMPL, - 2002 (92) flr 142

(ii) PAL VRS Employees Vs. Premier Automobiles – 2002 III LLJ 514,

(iii) Gadiyya Vs. KLE Society – AIR Online 2018 Kar 360,

(iv) *Shri Ravinder Pal Singh Sindhu Vs. Chairman Punjab Public Service Comm – AIR 2003 SUPREME COURT 788,*

(v) *Narayan Balkrishna Deshpande Vs. Pune ZP – 2002 1 CLR 736.”*

8. I have considered the rival submissions of both the parties and I have also gone through the judgments relied upon by both the learned Counsels.

9. As there were dues of retention allowances against the respondent Sugar Factory, it is useful to refer Section 33C of the Act, which is reproduced as follows :

"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 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 a 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:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) *Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount*

at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government; within a period not exceeding three months:

Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.

(3) For the purposes of computing the money value of a benefit, the Labour Court may, if it so thinks fit, appoint a commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the commissioner and other circumstances of the case.

(4) The decision of the Labour Court shall be forwarded by it to the appropriate Government and any amount found due by the Labour Court may be recovered in the manner provided for in sub-section (1).

(5) Where workmen employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workmen.

Explanation.—In this section “Labour Court” includes any court constituted under any law relating to investigation and settlement of industrial disputes in force in any State.”

10. The Hon'ble Apex Court in catena of judgments has held that only because the employees stood retired from services does not mean that they are not entitled to get dues payable to them and learned Labour Court has jurisdiction to entertain complaints under Section 33C of the Act. But, in the instant cases the learned Labour Court has failed to consider the entitlement of Complainants for retention allowances. The

learned Labour Court failed to consider that though the employees retired from services but they are still entitled to get the retention allowances, therefore, complaints are maintainable.

11. Thus, I am of the opinion that the orders passed by the labour Court are liable to be quashed and set aside by remanding the complaints to learned Labour Court to decide afresh.

12. In view thereof, the Writ Petitions are partly allowed. The orders dated 09.03.2022 passed below Exh.O-3 by the learned Labour Court, Jalna in Application (IDA) Nos. 29 of 2017, 08 of 2018, 31 of 2017, 09 of 2018 and 30 of 2017 are quashed and set aside.

13. Mr. Shinde, learned Counsel for the petitioner submits that the complaints lodged were in the years 2017 and 2018 and requested that purpose would served by directing the learned Labour Court to decide the complaints within a stipulated period.

14. Therefore, the learned Labour Court, Jalna is directed to decide the complaints within a period of six months from today.

(SIDDHESHWAR S. THOMBRE, J.)

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