



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

923 WRIT PETITION NO. 2639 OF 2020

JANARDHAN DNYANOBA SANGALE

VERSUS

**MANAGING DIRECTOR JAIBHAWANI SAHAKARI SAKHAR KARKHANA LTD
SHIVAJINAGAR**

.....

Mr. M. S. Indani, Advocate for the Petitioner
Mr. P. L. Shahane, Advocate for the Respondent

WITH

WRIT PETITION NO. 4684 OF 2020

**JAIBHAVANI SAHAKARI SAKHAR KARKHANA LTD THROUGH ITS
MANAGING DIRECTOR**

VERSUS

JANARDHAN DNYANOBA SANGALE

.....

Mr. P. L. Shahane, Advocate for the Petitioner
Mr. M. S. Indani, Advocate for the Respondent

WITH

WRIT PETITION NO. 4339 OF 2020

**JAIBHAVANI SAHAKARI SAKHAR KARKHANA LTD SHIVAJI NAGAR
THROUGH ITS MANAGING DIRECTOR**

VERSUS

GANPAT RAMCHANDRA KOKAT

.....

Mr. P. L. Shahane, Advocate for the Petitioner
Mr. M. S. Indani, Advocate for the Respondent

WITH

WRIT PETITION NO. 2644 OF 2020

GANPAT RAMCHANDRARAO KOKAT

VERSUS

MANAGING DIRECTOR JAIBHAWANI SAHAKARI SAKHAR KARKHANA LTD

SHIVAJINAGAR

.....

Mr. M. S. Indani, Advocate for the Petitioner
Mr. P. L. Shahane, Advocate for the Respondent

CORAM : R. M. JOSHI, J.
DATE : 30th JULY, 2025

PER COURT :-

1. By consent of both sides, heard finally at the stage of admission and since common question of facts and law involved therein, all Petitions are heard together and decided by this common order.
2. Writ Petition No. 2639/2020 and 2466/2020 are filed by two employees i.e. Janardan Dnyanoba Sangle and Ganpat Ramchandrarao Kokat seeking the modification of order dated 09/04/2019 passed by the Labour Court in I.D.A. No. 17/2017 and 18/2017 under Section 33(c)(2) of the Industrial Disputes Act (for short 'the Act'). Whereas the Writ Petition Nos. 4684/2020 and 4339/2020 are filed by the Employer for setting aside the order passed by the Labour Court granting the salary for the period of 16 months as claimed by the employees.
3. Parties are referred to as 'employees and Employer' for the sake of convenience.
4. Applications came to be filed under the provisions of Section 33(c)(2) of the Act seeking the relief of direction of payment of the

amount credited into the account of the employees with interest at the rate of 18% per annum. Similarly, prayer is made with regard to the payment of the wages for the period from July, 2004 to October, 2005 with interest. The Employer filed written statements in both proceedings contending that the Application is not filed within the period of limitation and the same is filed without any justification after a period of five years. It is also claimed that the said Application is not maintainable. It is however, specifically admitted in the written statements that the Applicant Janardhan was an employee/Wireman and Applicant Ganpat was an employee/Electrician and that they retired from the service on 03/02/2014 and 15/03/2012 respectively. It is further categorically admitted that their financial dues are credited in their individual ledger account mentioned by the Karkhana. The written statement filed by the employer therefore clearly indicates that there is no dispute made by the Employer with regard to the entitlement of employees in respect of the amount deposited in the individual ledger accounts of the employees.

5. With this admitted fact, evidence was led before the Labour Court. Employees examined themselves. Whereas, on behalf of the Employer, Mr. Kashinath Kshirsagar, Managing Director of the Jay Bhavani Sahakari Sakhar Karkhana Ltd., was examined. The learned Labour Court partly allowed the Application and directed payment of a sum of

Rs. 1,49,117.60 without interest. The interest is denied on the ground that there is delay in filing of the Applications by the Applicants.

6. Learned Counsel for the employees submit that under Section 33(c)(2) of the Act it is open for the Labour Court to determine the amount due to the employees though adjudication of the disputed facts is not allowed. It is his submission that the witness of the employer in no uncertain terms has admitted that the employees are entitled to receive sum of Rs.2,50,547.10 and Rs. 2,69,963/- respectively. According to them when there is no dispute that the legal dues were payable in the year 2012 but the same has not been paid, the Labour Court has committed error in not allowing the said entire amount to the employees and denying interest. To support his submission, reliance is placed on the judgment of the Co-ordinate Bench of this Court in case of ***Gatewell Board And Paper Pvt. Ltd., Vs. Fakruddin S. Lokhandwala and another, 2007(1), Mh.L.J., 246.***

7. Learned Counsel for the Employer on the other hand vehemently argued that the Application made before the Labour Court is vague and that no specific prayer has been made by the employees for receiving particular amount. It is his submission that unless specific prayer is made, it is not open for the Court to grant relief. He further argued that the scope of Section 33(c)(2) of the Act is extremely limited

and that the adjudication is not permissible. It is his further submission that since respondent claimed gratuity, said claim is not maintainable under Section 33(c)(2) of the Act as there is alternate remedy provided under the Payment of Gratuity Act. To claim the amount of gratuity. To support of his submission he placed reliance on the judgment of Hon'ble Supreme Court in case of ***State of Punjab Vs. Labour Court Jullunder and Ors., MANU/SC/0375/1979***. Similarly, reliance is placed on the judgment of this Court in case of ***Jaibhavani Sahakari Sakhar Karkhana Ltd., Vs. Baban Achyutrao Kulkarni in Writ Petition No. 3696 pf 2016, dated 17/10/2016*** in respect of the same employer. It is sought to be argued that since issue of closure is involved the same could not have been decided by the Court under Section 33(c)(2) of the Act. He further placed reliance on the case of ***Press Council of India Vs. Union of India and Another, (2012) 12 SCC 329***. He relied on the judgment of the Hon'ble Supreme Court in case of ***Manik Keshav Jagdale Vs. Parner Taluka Sahakari Sakhar Karkhana and Anr 2019 CLR 323***.

8. The law on the point of the jurisdiction of the Labour Court under Section 33(c)(2) of the Act is settled to say that the adjudication of any dispute is not permissible to be entertained by the Labour Court. However, at the same time there is no impediment for the Labour Court to compute the entitlement of the employees in exercise of the said

jurisdiction. Keeping in mind the said position of law it would be relevant to take into consideration the pleadings of the parties before the Labour Court.

9. The Applications clearly indicate that they specifically claimed unpaid wages so also the retiral dues. In the written statement, there is specific admission on the part of employer that the person is retired in the year 2012 and 2014 respectively and their final dues are credited in individual ledger accounts maintained by Karkhana. In the backdrop of these pleadings and admission by Employer, the employees led oral evidence and supported their claim. Mr. Kashinath Kshirsagar, Managing Director, in his evidence on oath, in no uncertain terms had admitted that the employees are entitled for the retiral benefits. He not only states about the entitlement of the employees but also admits that the amounts entitled to be received by them i.e. Rs. 2,50,547.10 and Rs. 2,69,963.00 respectively. There is further admission on his part that the amounts are due from 2012 and 2014 respectively.

10. In the light of the pleadings and evidence on record no issue arose for adjudication by the Labour Court. What was required to be done was only computation of amounts. The said exercise is also not required to be carried out by the Labour Court in view of the candid admission of the witness of the Employer about exact amounts due.

Thus nothing had remained for the Labour Court to decide in the Application. The Labour Court there ought to have pass an order on admission for the respondent employer.

11. Now coming to the issue sought to be raised by the learned Counsel for the Employer about the maintainability of the Applications as according to him the amount claimed also includes the amount payable towards gratuity. There cannot be any dispute made with regard to the preposition laid down by the Hon'ble Supreme Court in case ***State of Punjab Vs. Labour Court Jullunder and Ors.*** (supra) that in case where there is a determination of the amount of gratuity or the entitlement of any person to receive the same, in that case it is only the authority under the Payment of Gratuity Act would have jurisdiction to determine these questions. However, in the instant case the question as to the determination as well as entitlement was never in dispute. In fact by crediting the amount into the account of the employee, the employer admits of the entitlement of the employees so also the determination of the amount. Thus nothing had remained for determination as contemplated by the Payment of Gratuity Act. The judgments cited supra therefore would have no application to the present case. This Court therefore finds no substance in the arguments advanced by learned Counsel for the Employer in that regard.

12. It is shocks conscience of the Court that after filing of the written statement admitting the entitlement of the retiral dues of the employees in spite of paying it, the Employer has made all efforts for all these years i.e. since 2012 to 2014 respectively, to deny the rights of the employees and in fact utilized the said amount without legal or moral justification. In such circumstances it would be absolutely necessary that the interest at the rate of 12% per annum from the date of Application till realization must be directed to be paid by the Employer to the employees.

13. In the above circumstances, it was absolutely necessary for the Labour Court to allow the Application in toto. The orders impugned therefore deserve modification. The Petitions filed by the Employer stand dismissed. Petitions filed by employees stand allowed in following terms:-

- (i) Application I.D.A. Nos. 17/2017 and 18/2017 stand allowed.
- (ii) Applicant in Application I.D.A. No. 17/2017 is held to be entitled to receive Rs. 2,69,963/- along with interest at the rate of 12% per annum from the date of Application till realization.
- (iii) Applicant in Application I.D.A. No. 18/2017 is held to be entitled to receive Rs.2,50,547.10 along with interest at the rate of

12% per annum from the date of Application till realization.

(iv) The Employer is directed to pay the aforestated amounts with interest at the earliest and in any case within a period of three months from today.

(R. M. JOSHI, J.)

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