



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 667 OF 2020

Kinetic Engineering Ltd.

.. Petitioner

VERSUS

Vijay Laxmanrao Vahadane & others

.. Respondents

Mr. V. S. Bedre, Advocate for the Petitioner.

Mr. K. M. Nagarkar, Advocate for the Respondents.

CORAM : R. M. JOSHI, J.

DATE : 24th JULY, 2025.

ORDER :

1. This Petition takes exception to the order dated 30.07.2019 passed by the Labour Court, Ahmednagar in Application (IDA) No. 50/2013 filed by the Respondents under Section 33(c)(2) of Industrial Dispute Act (for short 'ID Act').

2. The facts which led to filing of the present Petition can be narrated in brief as under :-

Respondents are employees of Petitioner/company. Being denied permanency, they filed complaint ULP No. 220/1990 before the Industrial Court, Ahmednagar, for seeking benefits of permanency. Petitioner/company resisted the said complaint claiming that Respondents are the employees of contractor. By

judgment dated 28.01.1991, the said complaint was allowed by the Industrial Court. Petitioner/company took exception to the said judgment by filing Writ Petition No. 1096/1991 unsuccessfully. The order passed by this Court is confirmed by the Supreme Court.

3. In the light of these facts, Respondents/employees filed Application IDA No. 50/2013 under the provisions of Section 33(c)(2) of the ID Act. In the said application, the Respondents have claimed difference in wages payable to them in accordance with settlement arrived at with recognized union under the Provisions of The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ('MRTP & PULP Act' for short). Petitioner resisted the said application essentially on the ground that the Labour Court has no jurisdiction to adjudicate into the disputed question of fact. It is also contended that the wages/salaries of the Respondents are paid regularly and as directed from time to time by the Court. Labour Court, by impugned judgment and order, allowed the application. Hence, this Petition.

4. Learned counsel for the Petitioner denied the submissions that while exercising the powers under Section 33(c)(2)

of the ID Act, it was not open for the Labour Court to decide the disputed question of fact and on this ground itself, Petition deserves to be allowed. It is his further submission that the Industrial Court has directed permanency of the Respondents in the cadre of unloader, loader and counter. It is his submission that such categories are not available with the Petitioner/company and as such question of making any payment of wages in respect of the said categories does not arise. It is also sought to be argued that the benefit of the agreement with recognized union cannot be extended to the Respondents. It is further claimed that the Labour Court has failed to take into consideration the actual payment made by the Petitioner/company to the Respondents/employees. In order to support his submissions, he placed reliance on following judgments :-

- (i) Uttar Pradesh State Road Transport Corporation vs. Birendra Bhandari, LAWS(SC)-2006-9-110
- (ii) State of Uttar Pradesh vs. Brijpal Singh, LAWS(SC)-2005-9-94

5. Learned counsel for the Respondents submits the impugned order by contending that the Labour Court has not decided any disputed question of fact and in view of finality of the judgment of the Industrial Court of granting permanency and there being in

existence settlements with the recognized unions, nothing remains for adjudication and there is no reason to cause interference in the impugned order. It is his submission that there exists recognized unions in the Petition/company and the settlement entered into with the recognized union would bind the Petitioner/company and apply to all the employees. It is his submission that once the Respondents are held to be permanent employees of the company, there would be no justification in denying the benefits of settlement to them.

6. There cannot be any two opinions with regard to the proposition of law that the proceedings under Section 33(c)(2) of the Act are in the nature of execution proceedings and the Labour Court has no jurisdiction to adjudicate any dispute between the parties. Keeping in mind said position of law, if the facts of the present case are appreciated, then it is clear that in complaint ULP No. 220/1990 the Industrial Court has granted permanency to the Respondents/employees. They are directed to be made permanent in the categories mentioned in the judgment. This judgment has been confirmed by this Court so also by the Supreme Court. In such circumstances, nothing remains to be adjudicated with regard to the status of the Respondents/employees and their cadre/category. The

Industrial Court has directed permanency to the employees in specific categories therefore it can not be allowed to be claimed by Petitioner Management that no such category of employees is available with the company.

7. There is no dispute about the fact that in the Petitioner/company there exists recognized union under the provisions of MRTP & PULP Act and that from time to time, settlements are executed between the company and the union. Once settlement is arrived at with recognized union, the said settlement would apply not only to the members of the said union but to all the employees irrespective of the membership. Thus, there is no doubt about the fact that the settlements between the union and the management are duly applicable to the present Respondents.

8. There is no denial of fact that the settlements were produced before the Labour Court. Respondents/employees led evidence in order to contend that the amounts claimed by them are due and payable. Once such evidence is led, it only remains a matter of calculation of the amount payable to the employees. It is within the power of the Labour Court to carry out such exercise of

calculation of amount due. This does not amount to adjudicating upon any dispute.

9. Perusal of record indicates that the employees have succeeded in proving that they are entitled for the balance/arrears of wages and for want of any cogent rebuttal on the part of the Petitioner/company, the order passed by the Labour Court cannot be termed as perverse in order to cause any interference therein.

10. As a result of above discussion, there is no merit in the Petition. Hence, Petition stands dismissed.

(R. M. JOSHI)
Judge

dyb