

46 WRIT PETITION NO.14095 OF 2023

- VERSUS

Advocate for Petitioners : Mr. P. V. Barde
Advocate for Respondent : Mr. Mehul V. Navandar

FINAL ORDER :-

1. The petitioners/Maharashtra State Farming
impugns the order dated 7.7.2023 passed by the Industrial
Court, Ahmednagar below Exhibit U-2 in Reference (IC) No.2
of 2019, thereby directing the petitioners/Corporation to

release the bonus to eligible employees @ 8.33% for the period from 2008 to 2009, 2011 to 2012.

2. The Respondent/Union had issued a notice of change and accept bonus for the period from 2008-2009 and 2011 to 2012 from Respondent/Corporation. Since conciliation failed, reference is made to Industrial Court, Ahmednagar. On 3.11.2019 Respondent Union filed the claim statement with an application for interim relief seeking directions against petitioners to release 8.33% bonus to employees for aforesaid period. Petitioners took a defence that it suffered losses for relevant period and distributed bonus in two installments on 14.7.2015 and 1.8.2017. Industrial Court, after considering rival submissions, passed interim order directing petitioner to release 8.33% bonus to the eligible employees in terms of the mandate under the Payment of Bonus Act, 1965 (for short said Act).

3. Mr. Barde, learned advocate appearing for petitioners submits that entitlement of employees to receive bonus shall be subject to eligibility criteria prescribed under the said Act. According to him, there is no material on record to show that employees have rendered minimum service and

acquired eligibility to claim the bonus. According to him, payment of bonus is qualified payment subject to sections 8, 9, 10, 12, 13 and 14 of the said Act. He would further submit that although, respondent is claiming bonus for the period from 2008 to 2012, dispute was raised sometimes in the year 2017. As such, the Stale claim is referred for adjudication to the Industrial Court. The issue as to eligibility of the employees to receive the bonus, maintainability of claim, etc needs adjudication upon leading of evidence by the parties. However, Industrial Court passed interim order in terms of the final relief, presuming entitlement of the employees.

4. Per contra, Mr. Navandar, learned advocate appearing for respondent supports the impugned order. He submits that a list of employees, who have worked during period from 2008 to 2012 has been prepared by petitioners. The copy of such list is obtained under Right to Information Act and the same was placed before the Industrial Court. He would submit that respondents have not specifically disputed entitlement of employees to receive the bonus. Only defence sought to be put forth is that, petitioners suffered loss during that period. This cannot be a ground to deny the bonus. He

would therefore urge that writ petition sans merit, hence may be dismissed.

5. Having considered the submissions advanced, it can be observed that, petitioner is availing services of the daily wager employees. Record of such employees is maintained by them. They nowhere dispute that services of members of respondent Union were availed by the Corporation during period from 2008 to 2012. The record as to individual workman was not filed alongwith reply, however, respondent/Union placed on record documents obtained under Right to Information Act, that shows details of workman's employed at particular farm and days for which his services were availed. The communication dated 1.8.2023 made by Estate Manager to Managing Director of the Corporation alongwith list of employees depicting salaries disbursed during period from 2008-2009 to 2012-2013 is made part of the said communication. Therefore, there was sufficient material before Industrial Court to record a prima facie finding regarding services rendered by the employees during the aforesaid period.

6. Undoubtedly, provisions of section 8 of the said Act mandates that every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided that he has worked in the establishment for not less than thirty working days in that year. Section 10 provides for obligation upon employer to pay to every employee in respect of the accounting year a minimum bonus which shall be 8.33% of the salary or wage earned by the employee during that accounting year or one hundred rupees, whichever is higher. The scheme of the act provides time limit for payment of bonus so also deduction of amount of bonus under certain contingencies.

7. Looking to the scheme of the Act, employer is under statutory obligation to pay a minimum bonus @ 8.33 % of wages earned by him. Only condition precedent is that he should have worked for more than 30 days. Prima facie, this Court finds that liability to pay the bonus is not depending upon profit or loss of the industrial establishment. Right to receive bonus accrues in favour of employee once he renders services for more than 30 days.

8. In the present case, there is sufficient material on record in form of the list prepared by the Estate Manager himself indicating the period of services rendered by each of the employee at particular estate. The Industrial Court has passed the order directing release of bonus to the eligible employees only. Therefore, submissions advanced on behalf of the petitioners that Industrial Court has passed blanket order without looking to statutory provisions cannot be countenanced.

9. The petitioners have raised second objection that the stale claim has been referred to the Industrial Court. Prima facie, it is difficult to accept such contentions. It appears that initially dispute was raised. Even, there was dispute as to wages to be paid to the daily wagers. The bonus was released to the employees only after 2015 in installments. The claims as to salary up to 2011 were pending till May, 2013. There was negotiation and ultimately on failure of conciliation proceeding, reference was made in the year 2018. Therefore, there is no material before this Court depicting that stale claims were referred to the Industrial Court.

10. So far as the last objection that interim order is passed in terms of final relief is concerned, it appears from the Reference that respondents are claiming bonus @ 20% however, looking to the mandate under section 8 of the said Act, minimum entitlement of the employees cannot be disputed subject to their eligibility as specified in the impugned order. The interim order takes care to direct payment of 8.33% of wages earned by respective employees for relevant accounting year in terms of section 10 of the said Act. In the result, this Court do not find any ground to interfere in the impugned order in exercise of the writ jurisdiction under Article 227 of the Constitution of India. Hence, writ petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

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