

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7871 of 2022

Rajabhau Maruti Waghmare and Anr.

.. Petitioners

Versus

The Manager, Vardhaman Fertilizers and Seeds
Private Limited and Anr.

.. Respondents

-
- Mr. Vivek Rane, Advocate for Petitioners.
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 14, 2025

P.C.:

1. Heard Mr.Rane, learned Advocate for Petitioners. None appears for Respondent Nos. 1 and 2.

2. The present Writ Petition assails order dated 03.01.2022 passed by the Industrial Court, Solapur in Complaint (U.L.P.) No. 38 of 2014 filed under Section 28, Schedule IV, Item 6 and 9 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short “M.R.T.U & P.U.L.P Act”) whereby Petitioners’ claim for increment in payment of wages compared to standards of other employees was rejected.

3. The facts borne out from the record are that Petitioner No. 1 was hired in the year 2006 and Petitioner No. 2 was hired in the year 2009. They were working as “godown clerk” and “electrician” respectively. Respondent No.1 - Company is named as Vardhaman Fertilizers & Seeds Private Limited and Respondent No.2 – Company is

named as Vardhaman HighTech Agro Products Private Limited. Respondent No.2 is a Partnership Firm named as Vardhaman HighTech Agro Products Private Limited, Both the Respondent entities are managed by the same Directors and Partners and are situated adjacent to each other in the same compound.

3.1. Petitioner No. 1 was earning salary of Rs. 7,500/- per month in the year 2012, whereas Petitioner No.2 was earning salary of Rs. 8,000/- per month during the period of 2011-2013. In December 2013, Petitioner No.2 got an increment and was receiving a salary of Rs. 10,000/- per month.

3.2. The Petitioners although were originally employed by Respondent No.1, however they were subsequently compelled to render services for both Respondent No. 1 and Respondent No.2.- Companies via a oral transfer.

3.3. A Labour Union was formed in said Respondent No.1 - Company and all employees were paid according to agreement executed between the Labour Union and the said Respondent No.1 - Company.

3.4. Petitioners became aware that they were paid less salaries compared to other employees of the same designation. Hence, Petitioners decided to raise the issue before the Competent Authority.

3.5. On 24.02.2014, a Complaint was registered before Labour Commissioner, Solapur against Respondent Nos.1 and 2. After hearing the matter on 6 different occasions from February till June, 2014, on 05.06.2014, conciliation proceedings were finally closed by the Labour Commissioner due to repeated absence of Respondents, stating that no settlement could be arrived at.

3.6. Petitioners filed Complaint (U.L.P.) bearing No.38 of 2014 before the Labour Court, Solapur under Section 28, Schedule IV, Item 6 and 9 of the M.R.T.U. & P.U.L.P. Act.

3.7. Respondents resisted the complaint contending that Respondent Nos.1 and 2 are two separate legal entities which are independent and separately registered. Both companies have different production, nature and scope of services which are not interchangeable.

3.8. By order dated 03.01.2022 the Labour Court rejected the Complaint (U.L.P.) No. 38 of 2014 on the ground that considering two Complainants and two Respondents in the same matter, two separate complaints ought to have been filed however Petitioners had filed one common Complaint as also on the ground that the prayer made by Complainants was vague in nature. Subsequently Complainants failed to prove and corroborate their contentions with any cogent evidence to show that they were entitled to salary raise and for arrears of wages.

3.9. Hence, the present Writ Petition.

4. Mr. Rane, learned Advocate appearing for the Petitioners would submit that the Industrial Court has erred in dismissing the Complaint (U.L.P.) No.38 of 2014 filed by Petitioners. He would submit that the Industrial Court failed to appreciate that Petitioners were employed as “godown clerk” and “electrician” as seen from the Attendance list placed on record at page No.54 of the Petition. He would submit that the Industrial Court has further failed to appreciate the said documents placed on record by Petitioners showing that they were paid less salaries compared to similarly placed employees.

4.1. He would submit that the Industrial Court committed an error and proceeded on assumption that Petitioners failed to prove that they were merely engaged as Badlis or Daily Wagers. However it is pertinent to note that Petitioners were never given their appointment letters for proving the same. Also that they were paid less remuneration compared to other employees despite they having placed the salary slips of other employees on record.

4.2. He would submit that Petitioners have filed one common complaint as their grievances arose from the same set of facts and same cause of action.

4.3. He would submit that both Respondents are situated in the same premises and are functionally integrated. Hence he would submit

that though Petitioners worked for Respondent No.1 – Company as seen from the experience letter dated 27.03.2012 appended at page No.58 of the Petition and salary was paid by Respondent No.2 – Company as seen from the Employees Salary difference dated 10.07.2014 appended at page No.72 of the Petition, it proved that both the Respondent entities were functionally integrated.

4.4. He would submit that the Industrial Court has erred in holding that Petitioners should have stepped in the witness box when infact Petitioners did depose and their cross examination is placed on record which is appended from page No.129 onwards which has not been taken into consideration.

4.5. He would submit that the Industrial Court has passed the impugned order in a cursory and evasive manner, without due consideration for the relevant documentary evidence adduced by the Petitioners, which unequivocally establishes that they were remunerated at rates significant lower than their colleagues. Hence, he would urge the Court to allow the present Writ Petition.

5. I have heard Mr. Rane, learned Advocate appearing for Petitioners and perused the record of the case. None appears for Respondents despite being served, hence in their absence the present Petition is proceeded ex – parte as it cannot be protracted any longer.

6. At the outset it is seen that Complaint regarding the

allegation under Item-6 of Petitioners being engaged as “Badli” or “Daily Wagers” by Respondent Nos. 1 and 2 has not been proved. It is pertinent to note that in the Complaint itself Petitioners have not stated the full details and status of employment. It is seen that prayers pleaded in the Complaint itself appear to be vague in nature i.e. without any corroboration to the facts pleaded by the Petitioners.

7. It is seen that there are two Complainants and two Respondents respectively. However the Complainants have filed one common Complaint for themselves against the two separate Respondents. On perusal of their cross examination it is seen that Petitioners themselves have admitted that both Respondent Nos. 1 and 2 are different entities having different productions, muster rolls, Factory Act License, VAT etc. It is seen that as no proper order was sought from the Member, Industrial Court on the notice of documents and the said order on the notice of documents being unclear, benefit of doubt ought to be given to the Respondents.

8. With regard to the cross examination it is clear therefrom that Petitioners tried to establish the subject matter of their complaint but it was necessary for Complainants to bifurcate or differentiate their allegations raised in the said Complaint. However for any relief of unfair labour practice pleaded against the Respondents it was necessary for Petitioners to prove their case which the Petitioners

failed to do so.

9. If at all the case of Petitioners was to be accepted then it is required of them to furnish all details of their wages sought from January 2011 till the date of order of the Industrial Court seeking wage difference. The Petitioners ought to have entered the witness box and placed cogent evidence regarding details of remuneration paid to them and how much less and the differentiate due to them. Merely placing other employees' pay slip and comparing their pay cannot make out a case for equal of wages as is being done by Petitioners.

10. Hence it is clear that the burden of proof was on Petitioners and the same was not discharged by them. Thus Petitioners failed to substantiate their entitlement through their deposition or the testimony of other co-workers or other credible evidence to show disparity in payment vis-a-vis similarly situated employees. It is settled law that for a Complaint filed under Item 9 the Complainant must prove his case beyond all reasonable doubts that the Respondent has deliberately paid him less salary compared to others on the basis of cogent material.

11. It is seen that the prayer clause seeking monetary relief prayed for by the Petitioners is insufficient and vague. The claim of Petitioners – original Complainants for Rs. 3,00,000/- each towards alleged wage difference for over six years is not in consonance with

their pleadings in the main Complaint. The Petitioners – original Complainants have failed to establish their terms of employment, actual salary, salary drawn, the revision in salary and other essential elements needed for a pecuniary relief or grant which according to them has been denied by the Respondents.

12. On the basis of above observations and findings the burden of proof for proving their claim for minimum wages, equal wages, revision in wages, increment, illegal transfer, arrears of wages was on the Petitioners, however they have failed in their endeavor to discharge the same.

13. Petitioners have not placed any relevant material on record to justify their claim, the case of the Petitioners cannot be accepted by the Court. In view of the aforesaid observations and findings which *prima facie* emanate from the record, the impugned order dated 03.01.2022 being a well reasoned and cogent order giving adequate reasons does not call for any interference whatsoever by this Court. The order dated 03.01.2022 is upheld. Resultantly, the Writ Petition fails.

14. Writ Petition is dismissed and disposed.