

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8922 OF 2025

Nivedita W/o Kishor Deshmukh and Anr.

.. Petitioners

Versus

Pandurang Jagannath Thombare

.. Respondent

-
- Dr. Vinod Joshi a/w Ms. Sudha K. Gaud and Tiravana Sasane,
Advocates for Petitioners.
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 09, 2025

P. C.:

- 1.** Heard Dr. Joshi, learned Advocate for Petitioners.
- 2.** Order impugned in the present Petition is dated 14.02.2025 appended at page No.34 of the Application. Petitioners are aggrieved with the rejection of Application filed by Petitioners to implead three contractors as proper and necessary party in the proceeding pending before the Controlling Authority filed by the Respondent – employee under the Payment of Gratuity Act.
- 3.** Mr. Joshi would persuade the Court to consider the fact that Respondent – employee was working with three contractors and therefore it would be proper and necessary to implead the three contractors as proper and necessary party to the proceeding so as to require the immediate employer of the Respondent to pay the gratuity amount, if so determined.

3.1. He would submit that insofar as Petitioners are concerned, they have no nexus whatsoever though in his usual fairness he would submit that Respondent – employee used to sit in the office of Petitioners.

4. Perusal of the impugned order *prima facie* shows that learned Labour Court has considered the case of Applicant on the basis of material and evidence placed on record. Though it is argued by Mr. Joshi that Respondent – employee worked with different three contractors during different periods of time, Petitioner was not in a position to place on record adequate material evidence to sustain and justify such pleadings. However such a pleading is not maintainable on the face of record without cogent evidence of the same, when case of the Respondent employee is specific i.e. he was the employee of the Petitioner No.1 and it is based on documentary evidence placed on record.

5. Thus what weighed with the learned Labour Court was the overwhelming documentary evidence placed on record namely the employment offer letter dated 17.09.2018 issued by Petitioner No.1 to the Respondent – employee, Certificate dated 08.12.2014 coupled with ESIC Card reflecting name of Petitioner No.1 as employer alongwith payslips for salary for the month of January 2020, 2021, June 2022, PF passbooks for the period 2015-2016 to 2023 which

would demonstrate that Petitioners were in fact the employer of Respondent – employee for the aforesaid periods. It is seen that Certificate dated 08.12.2014 itself categorically stated that Respondent – employee worked for the Petitioner which would *prima facie* reveal and reflect that Respondent – employee was working with Petitioner since prior to 2013. That apart the last drawn salary slip issued by the Petitioner for the month of June 2022 was placed on record and in view thereof the learned Labour Court rejected the Application filed below Exhibit C-5 in absence of the Petitioner unable to show nexus of Respondent – employee with the three contractors in question.

6. Considering the aforesaid cogent reasons and findings returned by the learned Labour Court in paragraph Nos.5, 6 and 7 of the impugned order, no interference of this Court is called for therein. Hence the order dated 14.02.2025 is upheld and confirmed.

7. Needless to state that all contentions of the Petitioners namely opponents before the learned Labour Court in Application PGA No.89 of 2023 are expressly kept open in accordance with law. Considering the controversy involved the learned Labour Court is directed by this Court to decide Application PGA No.89 of 2023 filed by the Respondent employee as expeditiously as possible and in any event within a period of three months from today.

8. Advocate for Petitioner shall place a server copy of this order before the learned Labour Court at 11:00 am on 14.07.2025 for taking cognizance of this order.

9. Writ Petition is disposed in the above terms.

[MILIND N. JADHAV, J.]