



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2797 OF 2020

Agriculture Market Produce Committee, Sadak Arjuni, Tah.Sadak Arjuni, Dist.Gondia Through its Chairman, APMC Sadak Arjuni, Dist.Gondia	}	.. Petitioner
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Versus

Shri Jagannath S/o Baburao Munishwar Aged about 38 years, Occ : Service R/o Wadegaon (Sadak), Tah. Sadak Arjuni, Dist. Gondia	}	.. Respondent
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WRIT PETITION NO. 2796 OF 2020

Agriculture Market Produce Committee, Sadak Arjuni, Tah.Sadak Arjuni, Dist.Gondia Through its Chairman, APMC Sadak Arjuni, Dist.Gondia	}	.. Petitioner
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Versus

Shri Pritam s/o Subhash Suryawanshi Aged about 30 years, Occ : Service R/o c/o B. S. Suryawanshi, Sadak Arjuni Tah. Sadak Arjuni, Dist.Gondia	}	.. Respondent
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WRIT PETITION NO. 2795 OF 2020

Agriculture Market Produce Committee, Sadak Arjuni, Tah.Sadak Arjuni, Dist.Gondia Through its Chairman, APMC Sadak Arjuni, Dist.Gondia	}	.. Petitioner
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Versus

Shri Daulat Mahadeo Khotele
Aged about 32 years, Occ : Service
R/o Dongargaon, Post. Khajari,
Tah. Sadak Arjuni, Dist.Gondia

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.. Respondent

Mr. G.G.Bade, Advocate for petitioner.
Mr. J.K.Matale, Advocate for respondents.

CORAM : SIDDHESHWAR S. THOMBARE, J.

DATED : NOVEMBER 14, 2025

ORAL JUDGMENT

(1) Heard. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel appearing for the parties.

(2) In all these petitions, identical issue was involved. The respondents herein have filed IDA application Nos. 08/2016, 10/2016 and 09/2016 under Section 33-C(2) of the Industrial Disputes Act, 1947 (I.D.Act) claiming arrears of wages Rs.1,49,196/-, Rs.1,49,196 and Rs.74,598/- respectively.

(3) After considering the applications filed by the respondents, learned Labour Court vide its order dated 07/03/2020 allowed the applications and directed the petitioner to pay wages from April, 2015 to March, 2016 in IDA No.08/2016 and 10/2016 and from

October, 2015 to March, 2016 in IDA No.09/2016. The learned Labour from Court further directed that same shall carry interest @6% p.a. from 07/04/2020 till their realization. These orders are assailed by the petitioner by filing these petitions.

(4) Learned counsel for the petitioner vehemently submits that the applications filed by the respondents herein before the Labour Court under Section 33-C(2) of the I.D.Act are not maintainable as there was no prior adjudication or recognition of the claims made by the respondents. He further submits that for invoking Section 33-C(2) of the I.D.Act, there must be prior adjudication or recognition of the disputed claim of the workmen. In support of his contention, he relied upon the following judgments :-

1. Deepak Vallabhdas Intwala vs. Casby Logistics private Limited and others 2025 SCC OnLine Bom 536.

Held : "24. Mr.Vaidya has submitted that in so far as the claim for medical reimbursement, it is admitted in cross-examination of the Petitioner at paragraph 14 on page 85 of the Petition that there was nothing in the contract of employment that he would be entitled to medical reimbursement. He has submitted that this claim is untenable in law."

2. U.P.State Road Transport Corporation vs. Birendra Bhandari (2006) 10 SCC 211.

Held : "8. The principles enunciated in the decisions referred by either side can be summed up as follows :

Whenever a workman is entitled to receive from his employer any money or any benefit which is capable of being computed in terms of money and which he is entitled to receive from his employer and is denied of such benefit can approach Labour Court under Section 33-C(2) of the Act. The benefit sought to be enforced under Section 33-C(2) of the Act is necessarily a pre-existing benefit or one flowing from a pre-existing right. The difference between a pre-existing

right or benefit on one hand and the right or benefit, which is considered just and fair on the other hand is vital. The former falls within jurisdiction of Labour Court exercising powers under Section 33-C(2) of the Act while the latter does not. It cannot be spelt out from the award in the present case that such a right or benefit has accrued to the workman as the specific question of the relief granted is confined only to the reinstatement without stating anything more as to the back wages. Hence that relief must be deemed to have been denied, for what is claimed but not granted necessarily gets denied in judicial or quasi-judicial proceeding. Further when a question arises as to the adjudication of a claim for back wages all relevant circumstances which will have to be gone into, are to be considered in a judicious manner. Therefore, the appropriate forum wherein such question of back wages could be decided is only in a proceeding to whom, a reference under Section 10 of the Act is made. To state that merely upon reinstatement, a workman would be entitled, under the terms of award, to all his arrears of pay and allowances would be incorrect because several factors will have to be considered, as stated earlier, to find out whether the workman is entitled to back wages at all and to what extent. Therefore, we are of the view that the High Court ought not to have presumed that the award of the Labour Court for grant of back wages is implied in the relief of reinstatement or that the award of reinstatement itself conferred right for claim of back wages."

3. Municipal Corporation of Delhi vs. Ganesh Razak and another 1994 AIR SCW 5000.

Held : "12. *The High Court has referred to some of these decisions but missed the true import thereof. The ratio of these decisions clearly indicates that where the very basis of the claim or the entitlement of the workmen to a certain benefit is disputed, there being no earlier adjudication or recognition thereof by the employer, the dispute relating to entitlement is not incidental to the benefit claimed and is, therefore, clearly outside the scope of a proceeding under S.33C(2) of the Act. The Labour Court has no jurisdiction to first decide the workmen's entitlement and then proceed to compute the benefit so adjudicated on that basis in exercise of its power under S.33C(2) of the Act. It is only when the entitlement has been earlier adjudicated or recognised by the employer and thereafter for the purpose of implementation or enforcement thereof some ambiguity requires interpretation that the interpretation is treated as incidental to the Labour Court's power under S.33C(2) like that of the Executing Court's power to interpret the decree for the purpose of its execution."*

(5) By relying upon the above judgments, learned counsel for the petitioner submits that as the respondents did not work during the disputed period, therefore, question of paying their wages does not arise at all and IDA applications under Section 33-C(2) are not maintainable.

(6) Per contra, learned counsel for the respondents submits that the issue pertains only to non-payment of their salary for particular period and therefore, there is no question of claim requiring adjudication by all these respondents. He further submits that there is no dispute regarding the fact that they are employees. He also submits that he had placed on record the Muster Roll of the relevant period before the Labour Court, who has rightly passed the said order.

(7) I have gone through order passed by the Labour Court. To consider the controversy involved in the present petitions, it is useful to refer to Section 33-C(2), which reads as follows :-

33C. Recovery of money due from an employer.—

(1)

(2) *Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government; [within a period not exceeding three months:] [Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.]*

(8) After going through the above provision, it is clear that if any workman is entitled to receive from employer any money or benefit the same should be computed, then the question subject to any rules that may be made under this Act, be decided by such Labour Court.

(9) Considering the provisions and the issue involved, it was the case of the respondents herein who filed an IDA applications with a prayer that they have not received salary for the disputed period. On perusal it reveals that there is no dispute that the respondents were employees of the petitioner. Only because the petitioner contends that the respondents employees have not worked during that period, it cannot be said that they are not entitled to receive the salary. Once they are in employment, they are entitled to receive salary and therefore, the contention of the petitioner that the applications under Section 33-C(2) of the I.D.Act was not maintainable cannot be accepted. As the issue involved in these petitions is regarding the payment of wages/salary, there cannot be any prior adjudication. Once it is proved that the employees are in service and they have not received salary that itself means that the payment is due, therefore, their IDA applications filed under Section 33-C(2) of the I.D.Act are maintainable.

(10) The judgment relied upon by learned counsel for the petitioner in **Deepak Vallabhdas Intwala vs. Casby Logistics** (supra),

is regarding the claim of medical reimbursement, therefore, the same is not applicable to the present petition.

(11) As far as other judgments relied upon by learned counsel for the petitioner in ***Municipal Corporation of Delhi vs. Ganesh Razak*** (supra) and ***U.P.S.R.T.C. vs. Birendra Bhandari*** (supra) are concerned there is no dispute about applicability of Section 33-C(2), but if there was dispute about the payment due, then it can be considered that prior adjudication is required.

However, as far as the present case is concerned, when the respondents are entitled to receive the salary, that means there need not be any adjudication to that effect. Once the applications were filed pointing out that they have not received salary for the relevant period, certainly employees are entitled to receive salary. Therefore, I do not find any reason to interfere with the order passed by learned Labour Court under Article 227 of the Constitution of India. Hence, I proceed to pass following order :-

ORDER

1. The writ petition is dismissed.
2. No order as to costs.

(SIDDHESHWAR S. THOMBRE)

KOLHE