



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

WRIT PETITION NO. 2560 OF 2023

(Principal, Shriram Asegaonkar Adhyapal Vidyalaya, Pusad, District – Yavatmal & Anr. Vs. Datta Ganpatrao Kamble & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Abhay Sambre, Counsel for the petitioners.
Mr. S.S. Ansari h/f Mr. T.S. Patil, Counsel for respondent no.1.

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CORAM : ANIL L. PANSARE, J.
MARCH 19, 2025

The petitioner – Management has challenged the judgment and order dated 17/2/2023 passed by the Member, Industrial Court, Yavatmal, in Complaint (ULP) No. 203/2015. The Industrial Court has, by the impugned order, declared that the petitioners – original respondents were engaged in unfair labour practice by not paying respondent no.1 – original complainant arrears and bonus amounting to Rs.77,334.80/-, and accordingly, the Industrial Court directed the petitioners to pay the said amount to respondent no.1. In addition, the petitioners were directed to calculate the amount payable to respondent no.1 in terms of 5th pay commission, excluding the amount already paid. The Industrial Court has also held that respondent no.1 is entitled to get monthly benefit of 5th pay commission from the date of institution of plaint till its realization. There is, however, no direction to pay to respondent no.1 salary in terms of 5th pay commission.

2] In context with above, on 29/1/2025, following order was passed :

“The basic grievance of the petitioner – Management is as regards the finding of the Industrial Court, Yavatmal, that respondent no.1 is entitled for arrears and bonus of Rs.77,334.80/-. This finding is based on letter (Exhibit U-16) issued by petitioner no.1 stating therein that amount of Rs.78,223.80/- is payable to respondent no.1 and out of the said amount, Rs.889/- was paid and, therefore, the Court held that the petitioners are liable to pay, to respondent no.1, an amount of Rs.77334.80/- towards arrears and bonus.

2] The learned Counsel for the petitioners seeks time to go through the letter Exhibit U-16. Granted.

3] List in the week commencing from 10/2/2025.

4] Interim relief to continue till next date.”

3] In response, the learned Counsel for the petitioners has placed on record copy of Exhibit U-16. It is a letter written by petitioner no.1 to petitioner no.2 seeking guidance as regards the request made by respondent no.1 for payment of arrears and bonus. It appears that respondent no.1 sought arrears and bonus for the period from 1986-1994, and further sought bonus for the period from 1995-96 and 1996-97. Accordingly, the learned Counsel submits that there is nothing in the communication to indicate that the petitioners have admitted the aforesaid claim.

4] So far as Exhibit U-14 is concerned, it is a letter dated 4/3/1998 addressed to petitioner no.1 by the Education Officer directing petitioner no.1 to decide the

representation made by respondent no.1 for payment of arrears and bonus.

5] It is accordingly argued that the said letter is also not an evidence admitting the liability. Despite such status, the Industrial Court, by relying upon these two documents, held that respondent no.1 is entitled to receive amount of Rs.77,334.80/-.

6] The learned Counsel for the petitioners submits that in fact, respondent no.1 did not even seek such relief. He has invited my attention to the complaint filed before the Industrial Court. Respondent no.1 alleged unfair labour practice on the count that he is entitled for payment as per 5th and 6th pay commission and difference in salary.

7] In this regard, I am informed that 5th pay commission was brought in force in the year 2003 and 6th pay commission, on or after the year 2006. As against, the Industrial Court has granted relief to respondent no.1 for the period from 1986-1994 towards arrears of payment as also for the period from 1995-96 towards bonus. The learned Counsel submits that the Industrial Court has, thus, granted relief, which was not even prayed for by the respondent.

8] In addition, the learned Counsel for the petitioners submits that the complaint is time barred having been filed in the year 2015 for the relief for which cause of action allegedly arose in the years 1996 and/or 2006. He submits that no explanation of whatsoever

nature is tendered by respondent no.1 to approach the Industrial Court belatedly.

9] During the course of argument, since the petitioner restricted its grievance to the order directing payment of Rs.77,334.80/-, a specific query was made to the respondent no.1 as to whether such prayer was made and whether he had relied upon any other document than Exhibits 14 and 16 in support, to which the learned Counsel for respondent no.1 argued that the relief was sought on the basis of the aforesaid documents. However, he failed to point out that a specific prayer was made for payment of arrears of salary for the period from 1986-1994 and also for payment of bonus for the period from 1995-96 and 1996-97.

10] In the circumstances, I find substance in the arguments put forth by the petitioners that in absence of the prayer, the Industrial Court could not have granted the aforesaid relief. That apart, the documents relied upon by the Industrial Court to grant such relief does not really indicate that the petitioners have admitted the claim. As stated earlier, the document Exhibit – 14 is a direction given by the Education Officer to petitioner no.2 to decide the representation made by respondent no.1. The document Exhibit – 16 is a guidance sought by petitioner no.1 from petitioner no.2 as regards payment of arrears and bonus, as claimed by respondent no.1. There is nothing on record to show that decision was taken by the petitioners to pay to respondent no.1 the aforesaid amount. Even otherwise, since the prayer is

silent on payment of said amount, there was no occasion to grant such relief. The Industrial Court, thus, committed serious error in assessing the evidence on the touchstone of the pleadings. Further, respondent no.1 has not tendered any explanation for approaching the Industrial Court belatedly. The petitioners are correct in contending that the unexplained delay will be fatal to respondent no.1.

11] Put all together, the Industrial Court has misread the documents as also the evidence to grant relief to respondent no.1. It failed to adhere to the law of pleadings as well. In absence of prayer, the Industrial Court had no reason to grant relief. The impugned order, therefore, is unsustainable. Hence, following order :

ORDER

I] The petition is partly allowed.

II] The judgment and order dated 17/2/2023 passed by the Member, Industrial Court, Yavatmal, in Complaint (ULP) No. 203/2015, is quashed and set aside to the extent of it directing the petitioners to pay Rs.77,334.80/- to respondent no.1.

III] The petition is disposed of in above terms with no order as to costs.

(ANIL L. PANSARE, J.)

Sumit