



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

WRIT PETITION NO.569 OF 2024

The Sarpanch, Gram Panchayat, Dhamani (Khadi), Tq. Karanja, Dist.
Washim and others
Vs.
Bhimrao Pritam Warthe

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

Court's or Judge's orders.

Shri U.J. Deshpande, Advocate for petitioners.
Ms Kirti Satpute, Advocate for respondent.

CORAM : M.W. CHANDWANI, J.

DATE : 05.02.2026.

1. The petition challenges the order dated 26.09.2023 passed by the learned Judge, Labour Court, Akola in Application IDA Case No.5/2017 thereby directing the petitioners - employer to pay the amount of ₹1,47,144/- to the respondent – workman towards difference of wages alongwith interest at the rate of 6% per annum.

2. The contention of the petitioners is that proceeding under Section 33C of the Industrial Disputes Act, 1947 (for short, "I.D. Act") for recovery of money due from employer cannot be entertained by the Labour Court and it is only the appropriate Government who shall issue the certificate for recovery of the said amount. To buttress his submission, he seeks to rely upon the decision of *State of U.P. and another Vs. Brijpal Singh*¹ wherein, it has been observed that the

¹ 2005 (8) SCC 58

question of back wages could be decided only in a proceeding before the forum to whom a reference under Section 10 of the I.D. Act is made and Labour Court cannot arrogate to itself the functions of an Industrial Tribunal and entertain the claim made by the respondent herein which is not based on an existing right but which may appropriately be made the subject matter of an industrial dispute in a reference under Section 10 of the I.D. Act.

3. A reliance is also placed by the petitioners on the decision of the Supreme Court in the case of *Municipal Corporation of Delhi Vs. Ganesh Razak and another*², wherein it has been held that 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 Section 33C of the I.D. Act and 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 Section 33C(2) of the I.D. Act.

4. Upon perusal of the impugned order, it appears that the respondent – workman is claiming difference between minimum wages and wage paid to him. Section 33C (2) provides that 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 can be decided by such Labour Court. In the case before Their Lordship in ***Brijpal Singh*** (supra) the issue was of whether back wages is to be granted not. But here it is not a case of question of back wages but rather of calculation of the difference between minimum wages and wage paid to the respondent therefore, the Labour Court has jurisdiction to decide the same. Therefore, the judgments relied upon by the petitioners will not be helpful to them.

5. So far as the submission of the petitioners that Gram Panchayat, Dhamani (Khadi) is not an “industry” within the meaning of ID Act is concerned, nowhere the objection was raised by the petitioners before the Labour Court in this regard. The decision in the case of ***The Sarpanch, Gram Panchayat, Pophalavane Vs. Jaisingh Bhikaji Shinde*** ³ the learned Single Bench of this Court has observed that the workman would be required to discharge the burden to show that the petitioner is an industry only when the petitioner contests this issue. The issue as to whether the petitioner is an “industry” or not is not to be framed if the petitioners does not join the issue in this regard with the respondent.

6. Lastly, it is argued on behalf of the petitioners that the respondent has suppressed his date of birth and he

worked for the petitioners even after attaining the age of superannuation is concerned, it is not in dispute that the respondent even after attaining the age of superannuation worked for the petitioners and the main concern is that the respondent had worked and was not paid. Therefore, the petitioners are liable to pay the wages for the work which has been done by the respondent irrespective of his age of superannuation.

7. In wake of above, no case is made out and it is accordingly dismissed.

(M.W. Chandwani, J.)

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