



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

WRIT PETITION NO. 1849 OF 2025

Divisional Controller, State Transport,
Buldana Division, Divisional Office,
Malkapur Road, Buldana,
Tq. & Dist. Buldana.

.... Petitioner

VERSUS

Ramesh S/o. Sampat Sakhare,
Age : 59 Years,
Occu. : Retired Traffic Controller,
Chikhali Depot,
R/o. Tambulwadi, Post Sakhegaon,
Tq. Chikhali, Dist. Buldana.

.... Respondent

....
Advocate for Petitioner : Mr. V.H. Kedar
Advocate for Respondent : Mr. P.N. Verma
....

CORAM : PRAFULLA S. KHUBALKAR, J.

Dated : 23rd FEBRUARY 2026

JUDGMENT :

1. Heard.
2. **Rule.** Rule is made returnable forthwith and by consent of learned Advocates appearing for the parties, the petition is taken up for final disposal.

3. By this petition, the petitioner Corporation has challenged the judgment and order dated 11.07.2023, passed by Labour Court, Buldana, in Application (IDA) No.05 of 2022, allowing the application filed by the respondent-employee, under Section 33-C(2) of the Industrial Disputes Act, 1947 (for short, “the Act”).

4. The respondent-employee had filed an application under Section 33-C(2) of the Act, before the Labour Court, Buldana, and claimed an amount of Rs.92,465/- towards leave encashment for 21 days. On the basis of evidence available, Labour Court, Buldana, allowed the application and directed the petitioner Corporation to pay the said amount immediately. The petitioner Corporation has challenged the said order by way of instant petition.

5. Mr. V.H. Kedar, learned Advocate for the petitioner Corporation submitted that the respondent-employee has failed to demonstrate his entitlement for leave encashment for 21 days, on the basis of any settlement or award and as such, the application under Section 33-C(2) of the Act was required to be rejected. He submitted that the service record of the respondent-employee had incorrectly mentioned the days of leave as ‘152 days’, which later on was corrected to ‘131 days’ and as such, the employee was paid with all the dues against the leave encashment for 131 days. He, thus, submitted that in absence of any adjudication about the entitlement

of employee for leave encashment for 152 days, the impugned order is unsustainable.

6. While opposing the petition, Mr. P.N. Verma, learned Advocate for the respondent-employee submitted that the entitlement of the employee for leave encashment for 152 days is rightly decided by the Labour Court. He submitted that there is a clear entry in the service record about the period of leave as 152 days, which is unilaterally changed to 131 days and as such, the employee cannot be deprived of his entitlement for the entire period of leave encashment.

7. While considering the controversy involved, it has to be seen that, undisputedly, the respondent-employee is entitled for grant of benefits against his leave encashment. The service record mentioned the period of leave encashment as 152 days. Although the entry is corrected to 131 days, however, there is nothing on record to show that any notice was given to the employee before correcting the days from '152 days' to '131 days'. Although learned Advocate for the petitioner Corporation has vehemently submitted that, in absence of any settlement or award, the entitlement of the employee cannot be inferred, however, it has to be noted that the officer of the petitioner Corporation has itself submitted an evidence on affidavit mentioning therein that the employee is entitled for leave encashment for 139 days. In the evidence on affidavit of Mr. Rahul Chandrabhan

Tambade, who was examined as a witness on behalf of the petitioner Corporation, it is categorically stated that leave of 139 days is balance in the account of the employee and therefore, the employee is entitled for grant of additional 08 days towards leave encashment.

8. Pertinent to note, there is discrepancy in the case put up by the petitioner Corporation, as the period of leave is although corrected to 131 days in the service record, however, their own officer has led evidence on affidavit and stated on oath that the period of leave is 139 days. There is no convincing justification from the petitioner Corporation with respect to this discrepancy. As such, it becomes clear that, in any case, the period about which the employee is entitled for leave encashment is corrected by the petitioner Corporation as 131 days, to the disadvantage of the employee. Considering the fact that the service record initially mentioned the period of leave as 152 days, the entitlement of the employee for leave encashment for this period is rightly considered by the Labour Court while deciding the application under Section 33-C(2) of the Act.

9. A perusal of the impugned order passed by the Labour Court shows that the Labour Court has given due consideration to all the relevant factual and legal aspects. The view taken by the Labour Court appears to be a plausible view based on the material available before it.

10. Having regard to the above mentioned factual and legal aspects, particularly the fact of alteration of the period of leave from '152 days' to '131 days', without giving any notice to the employee and failure of the petitioner Corporation to explain discrepancy in the wake of evidence on affidavit mentioning the period of leave as 139 days, there is no need to interfere with the impugned order. No indulgence is warranted under Article 227 of the Constitution of India with the impugned order. Therefore, the writ petition deserves to be dismissed. Hence, the writ petition is dismissed with no order as to costs. Rule stands discharged.

11. Learned Advocate for the respondent-employee has prayed for withdrawal of the amount of Rs.92,465/-, deposited by the petitioner Corporation, in accordance with the order dated 30.06.2025, passed by this Court, in view of the impugned judgment and award.

12. Having regard to the fact that the writ petition is dismissed, the respondent-employee is permitted to withdraw the said amount as prayed for along with interest, if any.

[PRAFULLA S. KHUBALKAR]
JUDGE