
(1999) 07 BOM CK 0087
In the Bombay High Court
Case No : O.O.C.J. W.P. No. 944 of 1999

Anant Balu Batawale

APPELLANT

Vs

V.L. Kambale and Others

RESPONDENT

Date of Decision : 20-07-1999

Acts Referred:

Citation : (2000) 1 LLJ 183

Hon'ble Judges : A.P. Shah, J

Bench : Single Bench

Advocate : S.N. Deshpande, for the Appellant; R.J. Garg, for the Respondent

Final Decision : Allowed

Judgement

A.P. Shah, J.—This petition under Article 226 is directed against the order dated March 26, 1999 passed by the Industrial Court, Mumbai refusing to register the complaint filed by the petitioner under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as "the Act").

2. The petitioner is an employee of the respondent company. He has filed a complaint before the Industrial Court, Mumbai on behalf of 20 other employees who have authorised him to file this complaint. The petitioner has alleged in the said complaint that the company is indulging in unfair labour practices under Items 9 and 10 of Schedule IV of the Act. Basically, the grievance made by the employees is that the wages paid by the employer are much less than what is shown in the wage register. It is also alleged that overtime wages are not paid at double the rate as per the provisions of the law and that wages are also not paid on the 7th of the month, as required by law. It is stated in the complaint that the employer had adopted this practice in respect of the employees from their respective appointments. It is alleged that two separate registers are maintained and one is kept for the Government authority and the other is maintained for the record of the owner himself. The petitioner has annexed to the complaint a list of

the workers showing their names, their designations and wages actually paid per month. He has also mentioned the years of service of each employee. It seems that at the time of scrutiny an objection was raised by the office of the Industrial Court that dates of engaging in unfair labour practice are not mentioned in the complaint. The scrutinised papers were then placed before the President, Industrial Court who, in turn, sought explanation from the petitioner's Advocate. It seems that the petitioner's Advocate gave his say in respect of the said objection raised by the office wherein he pointed out that exact dates of appointments are not within the knowledge of the employees but the years of service are mentioned in Exhibit-A annexed to the complaint. The Industrial Court, however, declined to accept the explanation given by the learned Advocate and dismissed the complaint at the registration stage.

3. I have heard learned counsel appearing for the parties. I do not think that it is possible to sustain the impugned order passed by the Industrial Court. In my opinion, the Industrial Court has taken a hyper-technical view of the matter. The workers have mentioned the years of service put in by them in the respondent company. It is their case that the employer has been indulging in unfair labour practices right from the date of their appointments. The service record of the workmen is in possession of the employer. It is practically impossible for each workman to remember the exact date of his/her appointment. If ultimately it is found that the complaint is barred by limitation, the Court can refuse to entertain the complaint at that stage, but I do not see any justification in dismissing the complaint at the threshold.

In the result, petition succeeds. Rule is made absolute in terms of prayer clause (a). All contentions of the parties are kept open.