



**IN THE HIGH COURT OF KARNATAKA**

**KALABURAGI BENCH**

**DATED THIS THE 21<sup>ST</sup> DAY OF JANUARY, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE R.NATARAJ**

**WRIT PETITION NO.203353 OF 2019 (L-KSRTC)**

**BETWEEN:**

THE DIVISIONAL CONTROLLER  
NEKRTC, VIJAYAPUR DIVISION,  
ATHANI ROAD, VIJAYAPUR.

...PETITIONER

(BY SRI. MAHANTESH PATIL, ADVOCATE)

**AND:**

BANDAGISAB  
S/O NABILAL HUNDEKAR,  
AGE: 64 YEARS, OCC: RETD EMPLOYEE,  
R/O INDI ROAD, STATION ROAD, INDI  
DIST.VIJAYAPUR-586101.

...RESPONDENT

(BY SRI. SANJAY M JOSHI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 24.04.2019 IN APPLICATION NO.7/2018, VIDE ANNEXURE-C PASSED BY THE PRESIDING OFFICER, LABOUR COURT, VIJAYAPURA FILED BY THE RESPONDENT

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R.NATARAJ





**ORAL ORDER**

The petitioner has challenged the order dated 24.04.2019 passed by the Labour Court, Vijayapura in Application No.7/2018 under Section 33-C(2) of the Industrial disputes Act, 1947 (herein after referred to as ' the Act, 1947).

2. The respondent, who was employed as a driver in petitioner-Corporation, was dismissed from service on 30.08.2004. The respondent then initiated the proceedings before the Labour Court in K.I.D. No.11/2005. The Labour Court in terms of its order dated 22.05.2009 set aside the order of dismissal and directed the petitioner to reinstate the respondent into service with continuity of service and other consequential benefits. However, the prayer for back wages was rejected. The petitioner then challenged the said order passed by the Labour Court in W.P. No.84242/2010. This Court in terms of the order dated 25.04.2015 dismissed the writ petition. Following this, respondent filed an application under Section 33-C(2) of the Act, 1947, in Application No.7/2018 seeking for direction to the petitioner to pay a sum of Rs.19,28,019/- with interest at the rate of 18% p.a., being wages payable from the date of the order passed in the writ



petition referred above, till its realization. The petitioner contested the said application and claimed that the petitioner had wrongly claimed the wages of Rs.19,28,019/-. It contended that respondent is only entitled to a sum of Rs.19,56,067/- from which, statutory deduction of Rs.2,17,950/- had to be effected. Consequently, it claimed that respondent was entitled to a sum of Rs.17,38,117/-. The Labour Court after considering the aforesaid objections, passed the impugned order directing the petitioner to pay a sum of Rs.17,38,117/- within 3 months, failing which, it directed the petitioner to pay interest at the rate of 9% p.a. Being aggrieved by the same, petitioner is before this Court.

3. Learned counsel for the petitioner contends that respondent was entitled to claim 17-B wages by making appropriate application in the writ petition referred above. He submits that the respondent did not make any such attempt as he was already employed and hence, he could not have filed an affidavit declaring that he is not employed elsewhere. She contends that the respondent is not entitled to any back wages and the order passed by the Labour Court, reinstating the petitioner into service is incorrect. Besides this, he contends



that respondent did not report to the duty and hence, he is not entitled to any wages.

4. Learned counsel for respondent however on the other hand contended that the petitioner had obtained an order of stay of the order of reinstatement of respondent. He submits that as a result, respondent could not report to duty and he retired from service on 30.04.2015. He contends that after dismissal of the writ petition, respondent was entitled to wages that he would have earned, if, the petitioner had reinstated the respondent into service.

5. I have considered the submissions of learned counsel for the petitioner and learned counsel for respondent.

6. The award passed by the Laour Court dated 22.05.2009 shows that the order of dismissal of respondent from service was set aside and the petitioner was directed to reinstate the services of the petitioner with all benefits and continuity of service. However, the claim for back wages was rejected. This order was challenged in WP No.84242/2010. Therefore, respondent was prevented from reporting back to duty. The writ petition referred above was dismissed by this



Court on 25.04.2015, but, the respondent retired from service on 30.04.2015. Therefore, the petitioner had successfully ensured that the respondent did not report to duty, from the date of order of reinstatement by the Labour Court, till the dismissal of the writ petition filed before this Court. The respondent was deprived of the wages till this period and hence, respondent was justified in initiating the proceedings under Section 33-C(2) of the Act, 1947.

7. It is seen from the impugned order that the petitioner itself had made a statement before the Labour Court that the respondent is entitled to a sum of Rs.17,38,117/- after deducting a sum of Rs.2,17,950/- towards statutory deductions. Therefore, the Labour Court was justified in directing the petitioner to pay a sum of Rs.17,38,117/- within three months from the date of the order. Therefore, there is no error in the impugned order warranting interference in this writ petition.

8. Hence, the petition is ***dismissed***. The petitioner is directed to comply with the order dated



24.04.2019 passed by the Presiding Officer, Labour Court, Vijayapura in Application No.7/2018 in letter and spirit within a period of one month from today, failing which, the respondent is at liberty to take such steps as are available in law.

**Sd/-**  
**(R.NATARAJ)**  
**JUDGE**

NJ – para 1 to 6  
PMR – para 7 & 8  
LIST NO.: 1 SL NO.: 40