

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 149 OF 2014
IN WRIT PETITION NO. 9299/2011

PRALHAD KISAN CHAUDHARI
VERSUS
THE OSMANABAD JANTA SAHAKARI MULTI-STATE
CO-OPERATIVE BANK LTD. AND ANOTHER

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Advocate for Petitioner : Shri Patil Indrale Anand V.
Advocate for Respondents 1 & 2 : Shri Irpatgire A. N.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 13, 2015

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PER COURT :-

1. The respondent has placed a chart before this Court with a copy to the learned Advocate for the petitioner. Said chart is marked as Exhibit "X" for identification and taken on record.

2. I have heard the learned Advocates for the respective sides.

3. Shri Irpatgire makes it clear that a total amount of Rs. 13,17,262/- has been deposited in this Court. Vide Demand Draft Nos. 536874 for Rs. 10,09,936/- and no. 536875 for Rs.3,07,326/-, the amount is deposited.

4. On 14.7.2015, this Court had passed the following order:-

"1. Mr.Irpatgire, learned Advocate submits on instructions from the accused contemners Mr.Brijlal Sadasukh Modani and Mr.Vasant Sambhaji Nagade that in the light of the dismissal of the SLP filed by

the Bank against the petitioner, the respondents are agreeable to deposit an amount of 50% of the back wages for the period 24/06/2008 till the judgment of the Labour Court dated 25/11/2010 and full monthly wages for 35 months from 01/12/2010 till 29/10/2013 when the petitioner superannuated, in this Court within a period of 4 (four) weeks from today.

2. *Affidavit in reply is taken on record. Mr.Irpatgire submits that the petitioner himself has not accepted the back wages. Circumstances are explained in the reply.*

3. *Mr.Patil, learned Advocate submits that the wages will have to be calculated from the date of judgment of the Labour Court based upon parity in wages in between the petitioner and similarly situated employees of the same service tenure. He makes it clear that if the respondents try to reduce the quantum of payment by relying on the rate of wages payable on the date of dismissal, the petitioner would not be inclined to seek the disposal of this petition despite the amount being deposited.*

4. *Considering the above, stand over to 12/08/2015 so as to enable the respondents to deposit the said amount on or before the 11/08/2015."*

5. Shri Irpatgire submits that out of the amount payable to the petitioner, an amount of Rs.2,05,000/- approximately is to be recovered towards Society loans. An amount of Rs.3,07,326/- that is deposited in this Court is towards the employer's and employee's provident fund contribution. Shri Patil submits that the dispute as regards the calculation of the amount cannot be said to be settled though the respondents may have substantially implemented the order.

6. This Court, dealing with the Contempt Petition, cannot assume jurisdiction of an executing Court, inasmuch as a Contempt Petition will not amount to an execution proceeding.

7. In the light of the above, I am disposing off this Contempt Petition with the following observations / directions:-

(A) The respondent shall withdraw an amount of Rs.3,07,326/- which is the contribution under the Provident Fund Act, without any conditions so as to deposit the said entire amount with the Provident Fund Office to ensure that the P.F. records in relation to the petitioner are placed in order.

(B) From the residual amount of Rs.10,09,936/- an amount of Rs.2,25,000/- shall be transmitted by this Court to the Labour Court at Latur, within a period of eight weeks from today, which shall invest the said amount in FDR with a nationalized bank.

(C) After the above two deductions are carried out, the petitioner shall be at liberty to withdraw the remaining amount with interest by producing a tangible proof of identity and residence along with copy of the Permanent Account Number (I.T.) without conditions.

(D) The petitioner is at liberty to initiate proceedings under Section 33(C)(2) of the Industrial Disputes Act or under Section 50 of the the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act "), before the Labour Court at Latur within four weeks from today for recovering any amount due from the respondent over and above that is being paid.

(E) The Labour Court while dealing with the proceedings initiated by the petitioner, shall take into account the claim of the respondent - Bank as regards recovery of Society loans against the petitioner and the said issue shall be adjudicated upon while deciding the claim of the petitioner.

(F) In the event, gratuity is payable and is not yet paid, the petitioner is at liberty to resort to an appropriate remedy under the Payment of Gratuity Act, 1970.

(RAVINDRA V. GHUGE, J.)

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