

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 8274 OF 2015
IN WP/4057/2011

SECRETARY, MARATHWADA LAL BAWTA KAMGAR UNION
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Shri Yenge Balaji B.
AGP for Respondents: Smt. Shinde V.A.

...
CORAM : RAVINDRA V. GHUGE, J.
Dated: July 24, 2015

...

PER COURT :-

1. Shri Yenge, learned Advocate for the applicant, representing the nine employees, mentioned in Annexure A-2 to this Civil Application, submits that these nine persons are identically placed with those set out in Civil Application No.236 of 2014, which application has been allowed by order dated 9.4.2014. He, therefore, submits that the same order and same conditions be imposed on these applicants.

2. Learned AGP confirms that the applicants in Civil Application No.236 of 2014 have been allowed to withdraw the amount. The present applicants are similarly situated.

3. This Court (Coram : S.V.Gangapurwala, J.) by order dated 9.12.2013, passed in Writ Petition No.4057 of 2011 had permitted 31 employees, who had retired, to withdraw their amounts.

4. This Court, by its order dated 9.4.2014, had observed in paragraph Nos. 2 to 7 as under:-

“2. It is submitted that page No.5 of the Civil Application is an order of this Court passed on 9.12.2013, concerning the same litigating parties, in Writ Petition No.4057 of 2011.

3. I have gone through the order passed by this Court. The statement on behalf of the petitioner-State was recorded that leave encashment benefits are payable only if the employee retires / attains the age of superannuation. In the light of that statement, this Court allowed 31 employees to withdraw the amount under the head "Leave Encashment Benefits" which is evident from the said order.

4. Shri Yenge, learned Advocate has drawn my attention to page No. 7 of this Civil Application, which contains a list of 14 persons, who have retired from the employment and are, therefore, eligible for leave encashment benefits. The applicant is the Union.

5. In my view, since the Writ Petition is pending adjudication, these employees, who are seeking withdrawal of leave encashment benefits as per the amounts mentioned on page No.7, need to be put under some conditions, so as to ensure that in the event the petition succeeds, the money being withdrawn by them is returned to the State. Shri Yenge, learned Advocate has expressed no hesitation to submit the individual undertakings of these 14 persons, or their legal heirs as the case may be, in this Court, as a precondition for withdrawing the said amount.

6. It is therefore, directed that these 14 persons, or their legal heirs, as the case may be, shall execute an undertaking setting forth

their complete names, complete address, telephone numbers (cell and/or land-line) and attested photostat copy of their election identity card. The undertaking shall mention that in the event of change of address or telephone numbers, the concerned persons shall intimate in writing the change. The undertaking shall also include a statement that in the event, the Writ Petition succeeds, the amounts withdrawn by these 14 employees or their legal heirs, as the case may be, shall be re-deposited in this Court within a period of 30 days from the date of the judgment in this petition.

7. In these circumstances, these 14 persons, or their legal heirs, as the case may be, are individually allowed to withdraw the amounts mentioned on page No.7, by filing such an undertaking along with the documents as directed above as a precondition while withdrawing the said amount.”

5. Accepting the statement made by Shri Yenge, that the applicants mentioned in Annexure A-2 to this Civil Application are identically placed, this application is allowed by imposing the same conditions in paragraph Nos.6 and 7 as above.

6. With the above directions, this Civil Application is partly allowed.

(RAVINDRA V. GHUGE, J.)

...