

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.12328 OF 2014 IN
WRIT PETITION NO.8833 of 2013

APPASAHEB RAMBHAU GAGARE

APPLICANT

VERSUS

PRAVARA MEDICAL TRUST

RESPONDENT

Mr.L.V.Sangeet, Advocate for the applicant.

Mr.V.D.Hon, Senior Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 21/08/2015

PER COURT :

1. The applicant has prayed for withdrawal of the amount of Rs.1,75,542/- deposited by the petitioner/non applicant under orders of this Court. He further prays for a direction to the petitioner / Management to deposit the balance amount of arrears in this Court towards 100% wages from the date of the judgment of the Labour Court dated 10/09/2012 vide which he was granted reinstatement.

2. Mr.Hon, learned Senior Advocate has opposed the prayer on the ground that since the petition involves a service dispute, in the event the petition is allowed, it would be very difficult to recover the back wages and/or salary paid in the interregnum from the date of the Labour Court's judgment till the reinstatement of the applicant.

He, therefore, submits that this application be rejected and the stay granted to criminal (ULP) No.20/2013 be continued till the decision in the writ petition which may be heard peremptorily at the admission stage.

3. Mr.Sangit, in rebuttal, submits that the applicant is presently being paid at the rate of his last drawn monthly wages which were paid to him on the date of his termination 13/09/2002. Similarly situated employees are drawing substantial amounts in comparison to the meagre wages being paid to the applicant at the rate of Rs.2,200/- per month.

4. Having considered the submissions of the learned Advocates and the apprehension voiced by Mr.Hon, this civil application is partly allowed.

5. The applicant is permitted to withdraw an amount of Rs.1,00,000/- by executing an undertaking that in the event he fails in the pending petition and is held not entitled for the said amount of back wages, he shall return the said amount within a period of 3 (three) months thereafter, subject to his right to avail of legal remedies. The applicant shall file an identification proof in the

nature of his PAN (Income Tax) Card and copy of the Aadhar Card/ election identity card, duly attested alongwith the undertaking.

6. Similarly, the respondent / original petitioner is directed to pay the minimum rates of wages payable to the category of a “Watchman” from the date of this order till the decision in the writ petition or upto his superannuation, whichever is earlier. This shall be without prejudice to the rights of the litigating sides in the pending petition.

7. Considering the above fact situation, WP No.8833/2013 be listed for final hearing on 10/09/2015. Till the decision on the writ petition, Criminal Complaint (ULP) No.20/2013 shall stand stayed.

8. The residual amount lying in this Court pursuant to the withdrawal by the applicant, shall be invested in a Nationalized Bank in Aurangabad City for an initial period of 6 months.

9. In so far as the prayer for full wages from the date of judgment of the Labour Court till reinstatement is concerned, same shall be subject to the result of the petition.

(RAVINDRA V. GHUGE, J.)