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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CONT. PETITION NO.457 OF 2013
IN
WRIT PETITION NO.:9300 OF 2011**

**Shrihari Dattatraya Lomate
VERSUS
Osmanabad Janata Sahakari Multi-state Co-op. Bank Ltd. And Another

**WITH
CONT. PETITION NO.:551 OF 2013
IN
WRIT PETITION NO.:794 OF 2012**

**Pradeep Vithalrao Gond
VERSUS
The Osmanabad Janta Sahakari Bank Ltd. Thr Chairman And Anr

**WITH
CONT. PETITION NO.:554 OF 2013
IN
WRIT PETITION NO.:796 OF 2012**

**Mohan Dadarao Agawane
VERSUS
The Osmanabad Janta Sahakari Bank Ltd. Thr Chairman And Anr

**WITH
CONT. PETITION NO.:567 OF 2013
IN
WRIT PETITION NO.:797 OF 2012**

**Mahadeo Shanakar Mali
VERSUS
The Osmanabad Janta Sahakari Bank Ltd. And Anr

**WITH
CONT. PETITION NO.:572 OF 2013
IN
WRIT PETITION NO.:795 OF 2012**

Vijaykumar Vishwanath Hanchate
VERSUS
The Osmanabad Janta Sahakari Bank Ltd Thr Chairman And Anr

...
Advocate for Petitioner : Mr.Patil Indrale Anand V.

Advocate for Respondents : Mr.Irpatgire A.N.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 20th July, 2015

Per Court:

1 On 14.07.2015, this Court had passed the following order:-

“1. *In All these contempt petitions, the common thread is that all the petitioners, prior to the institution of these contempt proceedings, have instituted criminal complaints u/s 48(1) of The M.R.T.U. and P.U.L.P Act, 1971 before the Labour Court. The said complaints have reached the stage of the recording of the statements of the accused u/s 313 of the Cr.PC.*

2. *By the judgment of this Court dated 10/05/2013 in all the concerned writ petitions, the challenge posed by the respondent/Bank has been turned down and all the petitions have been disposed of by concluding in paragraph No.11 to 16 as under :*

“11. *In the result the order of reinstatement with continuity needs no interference.*

12. *In the evidence it has been stated in chief itself that the respondent / complainant is unemployed. There is no cross examination to that effect. It is also a fact that, case was lingering for more than eight*

years. The complainant cannot be faulted for the pendency of the case and the same cannot be a ground to deny the backwages. The respondent is also of advance age and at the verge of superannuation. Taking into consideration all the aforesaid conspectus of the matter, I deem it appropriate to award 50% backwages relying on the judgment of the Apex Court in a case of *P.V.K. Distillery Ltd., Vs. Mahendra Ram* referred supra.

13. Considering the aforesaid aspects of the matter, I pass the following order :

14. The orders passed by the Labour Court and the Industrial Court to the extent of directing the petitioners to reinstate the respondent with continuity in service is upheld.

15. The order to the extent of backwages is modified. The order of the Labour Court awarding full backwages and confirmed by the Industrial Court to the extent of awarding 100% backwages is quashed and set aside and it is held that the respondent/complainant is entitled for 50% of backwages. The petitioners shall pay 50% backwages to the respondents within three (3) months from today.

16. The writ petition accordingly is disposed of, however, with no order as to costs.”

3. Mr.Patil, learned Advocate for the petitioners submits that in some cases, the SLP's preferred by the respondent/Bank has been dismissed and some SLP's are pending.
4. Mr.Irpatgire, learned Advocate appearing on behalf of the accused / respondents namely Mr.Brijlal Sadasukh Modani and Mr.Vasant Sambhaji Nagade submits that in those matters, wherein the SLP's have been dismissed, the respondents have no difficulty in depositing the amounts of back wages as well as the wages till the date of reinstatement before the Labour Court. In fact, 50% of the wages, right from the date of dismissal till the date of reinstatement, have been deposited in the criminal proceedings before the Labour Court.

5. *He submits that the respondents have no intention of violating the Law or the orders of any Court and have every regard and respect for all the Courts. Considering the effect of the judgment of this Court dated 10/05/2013, the monthly wages from the date of the judgment of the Labour Court till the reinstatement of the petitioners, can be deposited in the Labour Court to the extent of the difference, if any. He, therefore, submits that these contempt petitions can be disposed of since the criminal complaints are pending before the Labour Court.*
6. *Mr.Patil, in response to the contentions of Mr.Irpatgire, submits that these petitions can be disposed of without prejudice to the rights of the petitioners to canvass before the Labour Court in the criminal complaints to the extent of the respondents depositing 50% of the wages from the date of dismissal till the date of judgment of the Labour Court and full wages from the date of judgment of the Labour Court till the date of their reinstatement calculated on the basis of the wages payable to similarly situated employees on parity by considering their length of service vis a vis, the petitioners. If this liberty is kept open, these petitions can be disposed of by recording the statement of the respondents.*
7. *Mr.Irpatgire prays for time till 20/07/2015 to take instructions. Stand over to 20/07/2015 for passing orders.”*

2 Shri Irpatgire, learned Advocate appearing on behalf of Respondent Nos.1 and 2, submits that Respondent Nos.1 and 2 are filing an affidavit in reply today through Mr.Vasant Sambhaji Nagade, who is the Chief Executive Officer of the concerned Bank. The said affidavit is taken on record.

3 Shri Irpatgire, therefore, summarizes the affidavit stating that the Respondents are agreeable to deposit the backwages of the concerned Petitioners from their date of termination till the date of judgment of the Labour Court or the date of their actual retirement, whichever is earlier, to the extent of 50% backwages as is directed by the Labour Court.

4 He further submits that the Respondents are agreeable to deposit the full backwages from the date of the judgment of the Labour Court till the date of reinstatement of the Petitioners or their date of actual retirement, whichever is earlier.

5 Shri Irpatgire, therefore, submits that the above stated amounts, if not already deposited, will be deposited in the respective Criminal ULP Complaints preferred by the Petitioners and they would be at liberty to withdraw the said amounts.

6 Shri Irpatgire further submits that Mr.Vijaykumar Vishwanath Hanchate has attained the age of superannuation on 09.05.2007 which was prior to the date of judgment of the Labour Court. He further indicates that Mr.Mahadeo Shankar Mali has attained the age of superannuation on 11.02.2012 which is after the date of judgment of the Labour Court, but prior to the date of judgment of this Court which is

10.05.2013.

7 He, therefore, submits that in case of Mr.Hanchate, 50% backwages from the date of judgment of the Labour Court till 09.05.2007 shall be calculated and deposited in the Criminal ULP Complaint proceedings before the Labour Court. Similarly, in case of Mr.Mali, the backwages as per the order of the Labour Court from the date of termination till the judgment of the Labour Court and full backwages from the date of judgment of the Labour Court till 11.02.2012 will be deposited before the Labour Court.

8 Shri Patil, learned Advocate appearing on behalf of the Petitioners, has frankly stated that the Petitioners are not interested in litigating against the Respondents. Their interest does not lie in keeping the Respondents occupied in litigation. It was only in order to ensure that their grievances are redressed, that these Petitioners had to resort to such legal remedies as were available to them in law.

9 He, therefore, submits that the Petitioners have no objection if these petitions are disposed of by directing the Respondents to comply with the judgments of the Labour Court and the judgment of this Court dated 10.05.2013 and to deposit the said amounts in the Criminal ULP

proceedings, which can be withdrawn by the Petitioners. The pending proceedings before the Labour Court initiated by some of the Petitioners under Section 50 of the MRTU & PULP Act, 1971 and under Section 33(C) (2) of the Industrial Disputes Act, 1947, can be expedited and can be taken to their logical end to the extent of properly calculating 50% backwages and 100% wages in accordance with law.

10 Shri Irpatgire has no objection to the suggestion made by Shri Patil.

11 In the light of the above, all these Contempt Petitions are disposed of by recording the contentions of the learned Advocates as above and by directing as under:-

- (a) 50% backwages payable from the date of dismissal/ termination till the date of judgment of the Labour Court or their retirement, shall be deposited by the Respondents, if not yet deposited, in the respective Criminal ULP Complaints filed by the Petitioners within a period of THREE WEEKS from today.
- (b) The full backwages payable to the Petitioners from the dates of judgments of the Labour Court till the date of reinstatement, by calculating them as wages drawn on the

date of reinstatement, if not already deposited, shall be deposited by the Respondents in the respective Criminal ULP Complaints preferred by the Petitioners, within a period of THREE WEEKS from today.

- (c) The Petitioners will be at liberty to withdraw the said amounts, by submitting an affidavit cum undertaking that they will refund such amounts to the Respondent Bank, if the same is recoverable by the Respondent Bank by way of legal dues towards loans, advances, etc.. and also by placing tangible identity proof before the Labour Court.
- (d) Any dispute between the litigating sides as regards the calculation of the backwages or recoveries as legal dues as noted above, shall be subject to the decision of the Labour Court in the pending proceedings under Section 50 of the MRTU & PULP Act, 1971 and under Section 33(C)(2) of the Industrial Disputes Act, 1947, which shall be decided as expeditiously as possible and preferably on or before 05.12.2015.
- (e) After the decision in Section 50 and Section 33(C)(2) proceedings, the Respondents shall deposit the amounts, if any that remains to be unpaid, in the criminal proceedings, within a period of TWO WEEKS after the pronouncement of

the judgment of the Labour Court subject to legal remedies.

- (f) Till the above conditions are complied with, the criminal ULP complaints would stand adjourned.
- (g) After all the monetary dues are paid to the Petitioners, they shall withdraw or seek disposal of the pending criminal ULP complaints.
- (h) In the event any legal dues towards loan or advances, etc., if are recoverable from these Petitioners by the Respondents, they shall resort to appropriate proceedings.
- (i) In the event any dues are recoverable, the Petitioners shall refund the said amount to the Respondent Bank within a period of FOUR WEEKS from the date of conclusion of such legal proceedings.

12 To the extent of legal dues towards loans or advances, etc., as contended by Shri Irpatgire, Shri Patil submits that in all cases the said amounts have been illegally deducted by the Respondents. I need not go into this aspect since it would be subject to the appropriate proceedings and in view of the fact that the Petitioners would be submitting an affidavit by way of undertaking before the Labour Court while withdrawing the amounts stating that they shall be bound to pay the legal dues, if any.

13 With the above directions, these Contempt Petitions are disposed of.

(RAVINDRA V. GHUGE, J.)