

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAW) NO.1248 OF 2015
IN
WRIT PETITION NO.2857 OF 2014

Bhandara Dist. Central Cooperative Bank Ltd. Head Office Bhandara.

-vs-

Vrunda w/o Raghunathji Dharmik

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. M. Ghare, Advocate for petitioner.

Shri R. M. Bhongade, Advocate for respondent No.1.

CORAM : A.S.CHANDURKAR, J.

DATE : AUGUST 05, 2015

The present application has been moved by the petitioner stating therein that the respondent No.1 has withdrawn the amount of Rs.11,00,052/- that has been awarded by the Authorities under Payment of Gratuity Act, 1972. It is stated that challenge to aforesaid orders is under consideration in the writ petition and in case the petitioner succeeds then it would not be possible to recover the amounts withdrawn by the respondent No.1. It is further stated that the departmental inquiry against the respondent No.1 is still pending. It is therefore prayed that the respondent No.1 be directed to furnish a bank guarantee or solvent surety in this Court to safeguard the interests of the petitioner.

Reply has been filed on behalf of respondent No.1 opposing the application. It is stated that though the Authorities have held in favour of the respondent No.1 and amount in question has been withdrawn in terms of aforesaid

orders. It is further stated that the charges levelled are not yet be proved.

Considering the issues arising in writ petition and the fact that respondent No.1 has withdrawn the amount as awarded by the Controlling Authority which is confirmed by the Appellate Authority, the interests of justice would be served if the respondent No.1 is directed to file an undertaking in this Court that in case the writ petition is allowed, the amount withdrawn by her under the impugned orders shall be repaid with interest at such rate the Court may then direct. Such undertaking be filed within period of four weeks from today.

The application is disposed of in aforesaid terms.

Civil Application No.1399 of 2015

By present application, the petitioner has prayed that the proceedings for recovery of the amount of interest initiated pursuant to the order dated 17/11/2014 be stayed during pendency of the writ petition. It is stated that as the entitlement to the principal amount itself is under dispute, the question of granting interest to the respondent No.1 is dependent on the outcome of the writ petition.

The application is opposed by respondent No.1 on the ground the order dated 17/11/2014 passed by the Labour Court has not been challenged and therefore the respondent No.1 is entitled to the amount of interest as awarded.

In the present writ petition, the orders passed by the Authorities under Payment of Gratuity Act, 1972 are under challenge. The amount of interest that has been awarded is on the principal sum that respondent No.1 has been found entitled to. As challenge to the entitlement of the respondent

No.1 itself is under challenge, the interests of the parties can be protected by directing the petitioner to deposit in this Court sum of Rs.1,56,258/- Said amount shall be deposited within period of four weeks from today. On such deposit, the amount shall stand duly invested. Request of the respondent No.1 to seek withdrawal of aforesaid amount shall be considered on its own merits.

Civil application is disposed of accordingly.

JUDGE