

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

**LETTERS PATENT APPEAL NO. 48 OF 2013
IN
WRIT PETITION NO. 2787 OF 2011**

Raju s/o Bhimrao Bhikner

.. APPELLANT

VERSUS

The Jalna District Central
Cooperative Bank Ltd. Jalna

.. RESPONDENT

Mr. A.S. Deshmukh, advocate for appellant.
Mr. K.J. Suryawanshi, advocate for respondent.

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CORAM : R.M. BORDE &

A.I.S. CHEEMA, JJ.

DATE : 10th FEBRUARY, 2016.

PER COURT :

1. Appellant is assailing the order passed by the learned Single Judge confirming the order passed by the Labour Court.

2. In the departmental proceeding initiated against the petitioner, after finding him guilty of serious mis-conduct, he has been dismissed from service and the order of removal was subject matter of challenge before the Labour Court. The Labour Court, after inquiry, found the action of the bank to be proper. The order passed by the Labour Court came to be challenged before the Industrial Court in revision application. The Industrial Court modified the order passed by the Labour Court and directed re-instatement of appellant-employee with 30% backwages. The order passed by the Industrial Court was questioned by the Bank in Writ Petition presented to this Court. This Court allowed the writ petition and restored the order passed by the Labour Court. In the order passed by the

learned Single Judge of this Court, in paragraph nos. 9 and 10, it is observed thus :

9. The earlier conduct of the respondent while working in the Bank is reflected at exhibit 'A' in the suspension Order dated 24th January, 2002 served upon the respondent. The list illustrates as many as 50 charges ranging from 16th September, 1994 to 24th January, 2002. The respondent did not adhere to the Bank Rules. He illegally remained absent. Even, he went on leave without salary. Consequently, on 14th July, 1998, his increment was stopped. On 1st July, 1999, he was warned for misconduct and served with a show cause notice. He also remained absent from duty during bank closing period. His absence from duty was treated as leave without pay. On 10th October, 2000, he withdrawn Rs. 8,000/- from Account No. 6606, he had withdrawn amount of Rs. 10,000/- from Account No. 8208, he was directed to deposit said amount on 5th November, 2001. Identical case in respect of Saving Bank Account No. 8511 was noticed, which withdrawal of amount was subsequently remitted. The approach of the Bank to accommodate the respondent for all the lapses referred to above, speaks its impartiality to deal with the respondent. The respondent was given opportunity to improve his conduct and consequently, his suspension order was withdrawn and he was permitted to resume the Bank.

10. The respondent, as is evident from record, did not improve his behaviour, without any authority, he went to Market Yard branch of the Bank on 31st July, 2004 and facilitated opening of 17-18 accounts of Sanjay Gandhi Niradhar Yojana and amount of Rs. 40,000/- of 18 such beneficiaries was withdrawn. The Enquiry Officer, on the basis of material on record, found that the respondent was not beneficiary of the amount withdrawn from these accounts and found that the beneficiaries were some other persons, who got illegal benefit due to act of the respondent. Before the Enquiry Officer, 5 such account holders / beneficiaries have, on oath, informed that they did not attend the said Bank for opening of accounts or for withdrawal of amount. This aspect was considered by the Enquiry Officer.

3. In view of above, we do not find any irregularity in the order passed by the learned Single Judge. Letters Patent Appeal stands dismissed.

(A.I.S. CHEEMA)
JUDGE

(R. M. BORDE)
JUDGE

dyb