

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

WRIT PETITION NO. 5410 OF 2016

THE OSMANABAD JANTA SAHAKARI BANK LTD THROUGH ITS
GENERAL MANAGER MAHADEO BANKAT
VERSUS
DADA BALBHIM LANGADE

...

Advocate for Petitioner : Shri Irpatgire A.N..

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 23rd November, 2016

Per Court:

1 I have heard the strenuous submissions of Shri Irpatgire, learned Advocate for the Petitioner/ Bank, who has vehemently criticized the impugned order of the Industrial Court dated 13.07.2015.

2 Shri Irpatgire submits that Complaint (ULP) No.45/2006 filed by the Respondent/ Employee challenging his termination dated 13.03.2006 is allowed on 27.05.2015. His termination is quashed and set aside. Without any evidence on record and without any discussion about the right to back wages, the learned Labour Court has mechanically granted full back wages without considering the law laid down by the Honourable Supreme Court in *J.K. Synthetics Limited vs. K.P.Agrawal*,

2007(2) SCC 433. He points out from paragraphs 18 and 19 of the said judgment that the worker has to at least step into the witness box and pray for back wages after leading evidence that he tried to obtain alternate employment and did not succeed despite strenuous efforts. He also places reliance on the judgment of the Honourable Supreme Court in *Gauri Shanker vs. State of Rajasthan*, 2015 (II) CLR 497 to contend that more than 50% back wages cannot be granted.

3 Revision (ULP) No.23/2015 has been preferred by the Petitioner/ Bank before the Industrial Court praying for setting aside of the judgment of the Labour Court. By an ad-interim order dated 26.06.2015, the judgment of the Labour Court was stayed since the Labour Court itself has stayed its order for two months. By the impugned interlocutory order dated 13.07.2015, the Industrial Court has stayed the judgment of the Labour Court till the final decision in the Revision Petition on the condition that the Petitioner/ Bank shall deposit the arrears of back wages before the Labour Court. The Petitioner is aggrieved by the direction to deposit the back wages during the pendency of the revision petition.

4 Despite the strenuous submissions of Shri Irpatgire, I am not inclined to entertain this Writ Petition for the two reasons. Firstly that an

interlocutory order has been challenged in this petition. Secondly, the Industrial Court has passed an equitable order. It cannot be ignored that the Petitioner Bank can conduct its revision petition expeditiously and can place reliance upon the reported judgments of the Honourable Supreme Court in the matters of J.K. Synthetics Limited and Gauri Shanker (supra) to support its revision petition. Since the impugned order is passed on equities, I do not think it reasonable to cause an interference in the said order.

5 In the light of the above, this Writ Petition is disposed of without interfering in the impugned order, but with the direction to the Industrial Court that it shall decide Revision (ULP) No.23/2015 as expeditiously as possible and preferably on or before 15.03.2017.

6 Since the direction to hear the revision petition expeditiously is being passed, I have not issued notice to the Respondent in this matter.