

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11101 OF 2016
WITH
CIVIL APPLICATION NO.2785 OF 2016**

Janata Co-operative Bank Ltd.	..Petitioner
Vs.	
Anjum Nara Nizamuddin & Ors.	..Respondents

**WITH
CIVIL APPLICATION NO.2785 OF 2016
IN
WRIT PETITION NO.11101 OF 2016**

Janata Co-operative Bank Ltd.	..Petitioner
Vs.	
Anjum Nara Nizamuddin & Ors.	..Respondents
And	
Tarique Anwar son of Asfaq Ahmed	..Applicant

Ms Shobana Gopal for the Petitioner
Mr. N. R. Bubna for the Respondent Nos.1 to 6
Mr. S. K. Halwasia a/w Mrs. S. S. Halwasia i/b M/s Halwasia & Co. for the
Applicant / Intervener in Civil Application

CORAM : R. M. SAVANT, J.
DATE : 26th OCTOBER, 2016

P.C.

1 The Writ Jurisdiction of this court is invoked against the order dated 18-3-2016 passed by the Learned Member of the Industrial Court Nashik by which order the Revision Application filed by the Petitioner Bank came to be partly allowed and resultantly the directions as contained in the operative part of the impugned order came to be issued. The said directions read thus :

The Order passed by the Labour Court below Exh.
U-2 on 29-2-2016 directing the revision applicant

to reinstate the opponent till the final disposal of the main complaint is hereby maintained. However, directions given by the Labour Court in para-3 of the operative part of the order that if the revision applicant failed to allow the opponent to resume duties, the revision applicant shall pay full wages to the opponents till the disposal of the main complaints is set aside and instead of that following order is passed:

“If revision applicant failed to allow the opponents to resume their duties, then revision applicant shall deposit month to month wages of the opponents before the Labour Court till the final disposal of the main complaints.”

The Order passed by the Labour Court below Exh.U-14 on 29-2-2016 is hereby set aside and Labour Court to decide Exh. U-14 in accordance with law.

No order as to costs.

2 The Respondent Nos.1 to 6 were appointed as clerks pursuant to the application which they made in terms of the advertisement issued by the Petitioner for various posts. The Respondents were initially appointed for a period of 6 months and on the 6 month period coming to an end fresh appointments were issued to them for a further period of 6 months. It seems that the Petitioner bank advertised some posts on 10-12-2015 which advertisement included the post of clerks. The Respondents filed Complaints challenging the advertisement dated 10-12-2016. It seems that the services of the Respondents came to be terminated on 16-1-2016 which resulted in the Respondents filing another set of Complaints being Complaint ULP Nos.6 of

2016 to 11 of 206 under Item 1 (a), (b), (d), and (f) of the MRTU and PULP Act. In the said Complaints the Respondents filed identical applications for interim reliefs thereby seeking the relief that they should be continued in service and that they should be paid wages. The said applications were opposed to on behalf of the Petitioner Bank by filing its reply. The Petitioner denied the commission of any unfair labour practice. It was the case of the Petitioner that the complainants were temporarily appointed for a period of 6 months and on the said period coming to an end a fresh appointment was issued which also came to an end after a period of 6 months. It was therefore the case of the Petitioner that on a specific period of employment coming to an end the services of the Respondents being terminated, the Petitioner was not required to comply with the provisions of Section 25(f) of the Industrial Dispute Act. The Learned Judge of the Labour Court considered the said applications and by her order dated 29-2-2016 allowed the said applications and issued the directions which are contained in the operative part which are reproduced hereinunder:

1. Application for interim relief (Exhibit U-2) is hereby allowed.
2. The respondent bank is hereby directed to reinstate complainant with regular wages and seniority till final disposal of the main complaint.
3. If respondent failed to allow complainant to resume his duty, the respondent shall pay full wages to the complainant till the disposal of main complaint.

4. The cost is cause in the main complaint.

5. The ad-interim order passed on 25-01-2016 stands confirmed.

3 The gist of the reasoning of the Learned Judge of the Labour Court was that the Respondents were appointed in vacant posts they had worked for a period of one year and therefore completed 240 days of service and hence their termination without following the provisions of Section 25(f) of the Industrial Disputes Act was illegal and thereby resulting in unfair labour practice committed by the Petitioner.

4 The Petitioner aggrieved by the said order dated 29-2-2016 carried the matter by way of Revision being Revision Application Nos.26 of 2016 to 31 of 2016. The Learned Member of the Industrial Court as indicated above has by the impugned order dated 18-3-2016 has partly allowed the said Revision Applications and modified the directions as contained in clause (3) of the operative part of the order dated 29-2-2016 passed by the Labour Court and substituted the same by directing the Petitioner who was the Revision Applicant to deposit month to month wages of the Respondents in the Labour Court till the final disposal of the main Complaint if the Petitioner does not allow the Respondents to resume the duties.

5 In my view, having regard to the nature of the modification which

has been carried out by the Learned Member of the Industrial Court and having regard to the controversy involved in the Complaint ULPs filed by the Respondents, it is not necessary to interdict with the order passed by the Learned Member of the Industrial Court Nashik. However, the said order is maintained with a caveat that the Respondents would not be permitted to withdraw the amount that is being deposited by the Petitioner in the Labour Court. In the facts and circumstances of the case, the hearing of the Complaint ULP Nos.6 of 2016 to 11 of 2016 is expedited and is directed to be disposed of latest by 31-3-2017.

6 The above Civil Application has been filed on behalf of the intervenors and the ground urged is that the intervenors had also participated in the selection of process. The intervenors are seeking to rely upon material to question the said selection. In the light of the instant order, it is not necessary for this court to consider the intervention application. It would open for the intervenors to approach the Labour Court by filing an application for intervention. If any such application is filed, needless to state that the same would be considered on its own merits and in accordance with law.

7 With the aforesaid directions, the Writ Petition is disposed of.

8 In view of the disposal of the above Petition, the Civil Application does not survive and to accordingly stand disposed of as such.

[R.M.SAVANT, J]