

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.13668 OF 2017
(Khayyum Khajamiya Shaikh Vs. The Nanded District Central
Co.op.Bank Ltd., Nanded)

IN
WRIT PETITION NO.4236 OF 2008

Mr.V.J.Dhage, Advocate for the applicant.
Mr.K.J.Suryawanshi, Advocate for the respondent.

CORAM : RAVINDRA V. GHUGE, J.)

DATE : 08/12/2017

PER COURT :

1. I have considered the strenuous submissions of the learned Advocates for the respective sides.

2. I deem it appropriate to note in this order that this is a classic case of an employee, who is working for almost 20 years, being paid Rs.70/- per day in a month of 26 working days. The said applicant therefore earns an amount of Rs.1,800/- p.m. In my view, this quantum of salary will not enable the applicant to keep his mind, body and soul together. He is working on starvation wages which could never be countenanced.

3. Learned Advocate for the Bank submits that about 92

branches of this Bank have been closed down though there are several other branches, which are working and the Bank is conducting its business.

4. It is then pointed out that an application was made by this applicant in 2011. By order dated 07/10/2011, this Court has disposed of the application by noting that the writ petition could be heard finally.

5. The writ petition is of the year 2008 and the record of the Registry indicates that in so far as the service matters are concerned, writ petitions from 1998 onwards are pending final hearing. The writ petitions for final hearing are divided into odd and even years as per the assignment. In this backdrop, it cannot be said that the writ petition would be heard finally out of turn.

6. The Hon'ble Apex Court in the matter of Chief Conservator of Forests Vs. Jagannath Maruti Kondhare, AIR 1996 SC 289 has laid down the law with regard to regularization and absorption and parity in wages by applying the principle of "equal wages for equal work". The applicant, in this case is working as a "Peon". He has been granted permanency by the Industrial Court vide its judgment dated

27/02/2008 delivered in Complaint (ULP) No.55/2002. While admitting the writ petition, this Court has directed *status-quo* to be maintained by order dated 22/06/2009.

7. It appears that the Bank is taking a plea that there are no posts available. Since this Court has directed *status-quo* as in 2009, the same quantum of wages are being paid to the applicant/employee.

8. I find from the above that the respondent/Bank is considering the case of the applicant in a desensitized manner. The Bank does not seem to think of the fact that as to whether any human being in this country could survive alongwith his family in an amount of Rs.1,800/- per month.

9. In fact, considering the law laid down by the Hon'ble Apex Court in the case of Chief Conservator (supra), if the posts are not available, the employer has to pay wages to an employee claiming regularization *at par* with comparable employees. In the case in hand, the applicant is working for almost 20 years and as such gross salary being paid to an employee who may be working as a "Peon" for the period of 19 to 20 years, being a comparable employee, will have

to be paid to the applicant.

10. The applicant has put forth a meager prayer in the application by stating that at least Rs.7,500/- p.m. be paid to him, notwithstanding the fact that the learned Advocate for the applicant submits that if the applicant is entitled to parity in monthly wages, that cannot be denied to him.

11. Considering the above, this application is allowed. The Respondent / Bank is directed to make the payment of gross monthly wages to the applicant at par with a comparable peon, who is working for 19 to 20 years. Such payment shall be made with immediate effect beginning from the month of December 2017. In so far as the difference of wages is concerned prior to December 2017, it shall be calculated while deciding the writ petition, which is pending final hearing.

(RAVINDRA V. GHUGE, J.)