

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

CIVIL APPLICATION [CAW] NO.1067 OF 2017
IN
WRIT PETITION NO.7402 OF 2014

(Ramesh Govindrao Fuke
vs.
Gangadhar Appaji Dalvi and others)

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

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Court's or Judge's Orders

Shri S.K. Sable, Advocate for the Applicant/Respondent No.1.
Shri N.J. Agrawal, Advocate for Petitioner.
Shri M.R. Puranik, Advocate for Respondent Nos.2.
Shri B.M. Lonare, A.G.P. for Respondent No.3.

CORAM : KUM. INDIRA JAIN, J.
DATE : 31st JULY, 2017.

Heard learned Counsel for the parties.

Perused impugned judgment and order dated 05/05/2014 passed by the learned First Labour Court at Nagpur in Application (IDA) No.71/2006. It was the case of respondent no.1 that he was in service of petitioner as Clerk since 01/11/1980 and continued in the employment till his suspension till 18/07/1988. Petitioner raised objection and filed reply submitting that respondent no.1 was never in the employment of petitioner and he had sued the petitioner in personal capacity without suing the company as party non-applicant. Non-applicant was not party before the Court below.

The only objection raised by the petitioner appears to be non-joinder of company as a party and joining the petitioner in his personal capacity. Learned Labour Court had considered the evidence and entire

material placed on record and came to the conclusion that non-applicant no.1/petitioner has to pay Rs.5,23,877.31 and interest at the rate of 8% per annum on the difference of salary till its actual realization.

Considering the reasons recorded by the Labour Court, this Court is of the view that 50% of the amount deposited with this Court can be allowed to be withdrawn by respondent no.1. Apprehension of the petitioner can be taken care of by imposing a condition to furnish an undertaking to the effect that in case petitioner succeeds, he shall repay the amount so withdrawn to the petitioner.

In view of the above, Civil Application No.1067/2017 is allowed. Respondent no.1 is permitted to withdraw 50% of the amount deposited by petitioner in this Court on furnishing an undertaking to the effect that in case petitioner succeeds in petition, he shall repay the entire amount to petitioner within a period of two months.

Civil application stands disposed of.

JUDGE

**sdw*