

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

CIVIL APPLICATION NO. 4288 OF 2018
IN WP/12875/2016

WITH

CIVIL APPLICATION NO.4286 OF 2018
IN WP/592/2017

WITH

CIVIL APPLICATION NO.4287 OF 2018
IN WP/576/2017

WITH

CIVIL APPLICATION NO.4289 OF 2018
IN WP/572/2017

MAHADEO SHANKAR MALI AND OTHERS.

VERSUS

THE OSMANABAD JANTA SAHAKARI BANK LTD THROUGH ITS
GENERAL MANAGER MAHADEO BANKAT GAIKWAD AND ANOTHER.

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Advocate for the Applicants : Shri Patil Indrale Anand V.

Advocate for the Respondents : Shri A N Irpatgire.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 28th September, 2018

Per Court:

1 In all these Civil Applications, identically placed applicants pray for withdrawal of the amounts deposited by the Respondent/ Bank in their respective writ petitions.

2 Shri Patil, learned Advocate for the Applicants, strenuously submits that all these amounts are towards arrears of wages, bonus and provident fund accumulations of these applicants. Depriving them of these

arrears, which they succeeded in getting in the proceedings under Section 33-C(2) of the Industrial Disputes Act, 1947, would be unjust and they should be disbursed to them considering that they are out of employment.

3 Shri Irpatgire, learned Advocate for the Respondent/ Bank, submits that these amounts should not be permitted to be withdrawn for three reasons. Firstly that, the Labour Court has granted benefits beyond the prayers made by these applicants and as such, has granted more amounts than what were claimed under Section 33-C(2) by each of them. Secondly, the Labour Court has considered the issue of bonus, which is a disputed issue under the Payment of Bonus Act, 1965 and has granted bonus amounts as well. Thirdly, the Labour Court has also dealt with the provident fund accumulations and the Labour Court was completely without jurisdiction when there are two Fora available under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 for recovery of unpaid provident fund subscription, damages and interest. Shri Irpatgire, therefore, strenuously opposed the withdrawal of amounts by these applicants.

4 I find some merit in the submissions of Shri Irpatgire that the issues of eligibility for bonus amounts, percentage of bonus to be paid and provident fund accumulations, would be beyond the jurisdiction of the Labour Court.

5 In view of the above, these Civil Applications are partly

allowed. The Applicants are permitted to withdraw only 60% of the amounts deposited by the Respondent/ Bank in the respective petitions.

6 These applicants shall tender the applications through their Advocate along with their recent photograph, address proof in the form of the copy of the Income Tax PAN Card or Election Commission's Voter Identity Card and an affidavit-cum-undertaking that if the result of the petition is adverse to them and if they are held to have withdrawn more amounts than those which they would be entitled to, the said amounts would be redeposited in this Court within four weeks from the date of such orders.

7 Residual amounts shall be invested by the Registry in fixed deposit receipts in any nationalized Bank initially for a period of three years.

kps

(RAVINDRA V. GHUGE, J.)

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