

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.10241 OF 2018
(The Nanded District Central Co.Op.Bank Ltd., Vs. Khayyum
Khajamiya Shaikh)

IN
CIVIL APPLICATION NO.13668 OF 2017
IN
WRIT PETITION NO.4236 OF 2008

Mr.P.V.Barde h/f Mr.K.J.Suryawanshi, Advocate for the applicant.
Mr.V.J.Dhage, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 06/12/2018

PER COURT :

1. This civil application has been filed by the original petitioner/ Management seeking a clarification as regards the order passed by this Court dated 08/12/2017.

2. Mr.Barde, learned advocate has strenuously submitted that the nature of duties of the employee cannot be compared with the duties of a permanent peon. A major difference in the nature of duties is that a permanent peon is made responsible for the movement of cash out of the Bank when he accompanies an authorized employee who carries the cash, as a security. A temporary peon is never entrusted with this responsibility. He also points out certain other minor

differences in the duties which are set out in paragraph No.2 of the additional affidavit dated 02/12/2018. He further adds that a permanent peon, who has worked for about 20 years, would be paid monthly salary of approximately Rs.14,882/-. The basic wages are Rs.200/- per month and the dearness allowance is more than 3 times of what is prescribed by the State under the Minimum Wages Act.

3. Learned Advocate for the employee submits that it is legally unacceptable that the basic wages are Rs.200/- per month when the basic wages as in December 2017 applicable to the shops and commercial establishments is Rs.4,700/-. He further adds that having worked for more than 20 years as a peon and after the Industrial Court arrived at a finding on facts that he is deemed permanent as he has proved completion of 240 days in continuous employment in each calendar year, the bank cannot continue to submit that the employee is a temporary. He places reliance upon the judgment of the Hon'ble Apex Court in the matter of State of Punjab Vs. Jagjit Singh and others [AIR 2016 SC 5176].

4. I find that the contention of the Bank that Rs.200/- per month would be appropriate basic wages considering the total of the pay

package which is not below the total minimum wages. The law on minimum wages has sufficiently developed and even if the employer extends the total wages more than the minimum wages, the minimum basic wages and the dearness allowance prescribed cannot be ignored and any shortfall would be impermissible in law notwithstanding that the total is more than the total minimum wages. I would, however, deal with this issue while deciding the writ petition.

5. The order of this Court dated 08/12/2017 passed on CA No. 13668/2017, was assailed by the Bank before the Hon'ble Supreme Court and its special leave petition No.22364/2018 has been dismissed by order dated 06/08/2018.

6. Learned Advocate for the Bank has contended that a comparable employee would be entitled for a monthly salary of about Rs.14,882/-. Learned Advocate for the employee contends that a comparable employee is being paid a monthly salary of about Rs.21,000/-.

7. In view of the Law laid down in State of Punjab (supra) and considering the statements recorded as above, I direct that the

respondent/employee shall be paid monthly wages of Rs.14,000/- since 01/11/2018 as an interim arrangement. The periodic rise in dearness allowance shall be accordingly added to this amount and the said amount shall be paid till the writ petition is decided.

8. It is made clear that while deciding the writ petition, the eligibility of the respondent to the difference in wages would be considered keeping in view the provisions of the Minimum Wages Act and the prescribed wages that are payable to a comparable employees.

9. This civil application is, therefore, disposed of by directing the applicant/bank to comply with the directions recorded as above.

(Ravindra V.Ghuge, J.)