

*rrpillai***IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 402 OF 2018**

The Chairman ... Petitioner

The Karad Urban Co-op Bank Ltd. & Anr.

vs.

Shri Madhukar Laxman Thorat ... Respondent

Mr. C. P. Yadav for the Petitioner.

Mr. Milind Deshmukh for Respondent no. 1

CORAM : A.K. MENON, J.

DATE : 26th FEBRUARY, 2018

P. C.

1. By this Writ Petition the petitioner assails an order dated 2nd November, 2017 passed by the Appellate Authority Satara and Member, Industrial Court under the Payment of Gratuity Act, 1972. The respondent who was at the material time working as clerk for the petitioner since 17th July, 1988. He was promoted as an officer in the course of employment. He later submitted an application for voluntary retirement dated 5th August, 2005 which application was sanctioned by the Board of Directors of the petitioner at a meeting held on 24th February 2006. The respondent was relieved of his services from 31st March, 2006.

2. A complaint bearing no. 23 of 2006 was filed by the respondent in Labour Court making false allegations against the petitioner. While the complaint remained pending an interim order directed the petitioner to let the respondent resume his duty.

3. A Revision Application (ULP) No. 21 of 2007 was filed by the bank which came to be dismissed after which the bank filed Writ Petition in this court being Writ Petition No. 6041/2007. This Court vide order dated 24th October, 2007 the orders of the Labour Court were suspended in which the preliminary issue regarding jurisdiction and maintainability of the complaint was decided. The issue raised pertains to the employer-employee relationship sought to be raised by the petitioner bank. Accordingly, the Labour Court decided the said application in favour of the respondent employee on 11th April, 2008.

4. Being aggrieved by the said decision the petitioner once again filed Revision Application being (ULP) No. 22 of 2008. In the meantime the respondent filed Writ Petition 5409 of 2008 in this Court. By order dated 15th September, 2008 this Court set aside the order dated 21st May, 2008. A Review Petition No. 132 of 2008 in Writ Petition No. 5409 of 2009 came to be filed against the said order which was rejected by this Court on 2nd May, 2009. Copies of these orders are not annexed to the petition. However, the averment pertaining to these orders are found in paragraph 3(m) of the petition.

5. In the mean time petitioner challenged the order of the Labour Court declaring the respondent his employee as confirmed by the Industrial Court on 7th April, 2009 and the previous order of the Labour Court dated 31st March, 2008 directing reinstatement were challenged in this Court by Writ Petition No. 6077 of 2009. On 6th July, 2010 this Court found the order impugned in that Writ Petition to be in order and accordingly the aforesaid orders were confirmed. The order recorded that interim relief granted had been complied with and there was no

reason to disturb the position. The petition was there after finally disposed of since order of reinstatement had been complied with.

6. It is common ground that order dated 6th July, 2010 passed in Writ Petition 6077 has not been challenged by the petitioner. Thereafter the respondent employee demanded gratuity payable by the petitioner bank for the period 17th July, 1980 to 31st March, 2006 and 1st April, 2006 to 9th September, 2013 in view of the fact that the order terminating services had not been set aside at the material time. The Appellate Authority has thereafter disposed of the appeal against a judgment passed by the Labour Court Satara. By the impugned judgment it upheld the order passed by the Labour Court and dismissed the appeal with a further direction that amount of gratuity deposited Rs.7,85,531/- with Industrial Court Satara be paid over to the respondent.

7. In my view there is no substance in this petition. The impugned order is a well reasoned order does not reveal any perversity. Besides in view of the fact that final order in Writ Petition No. 6077 of 2009 has not been challenged by the petitioner - bank there is no case for interference in the writ jurisdiction of this Court. Hence, I pass the following order :

- (i) Writ petition is dismissed.
- (ii) No order as to costs.
- (iii) Ad-interim order dated 17th January, 2018 stands vacated.

(A.K. MENON, J.)