

sg

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1226 OF 2018

IN

WRIT PETITION NO.4045 OF 2005

Arun Sandipan Jarag

...Applicant

In the matter of

Maharashtra State Road Transport Corporation

...Petitioner

vs

Arun Sandipan Jarag

...Respondent

.....

Mr. Shailesh K. More, for the Applicant.

Mr. C.M. Lokesh, i/b. G.S. Hegde & Associates, for the Respondent.

.....

CORAM : S.C. GUPTE, J.

DATED: JUNE 19, 2018

P.C. :

. This application is for withdrawal of the sum of Rs.1,90,253/- deposited by the Petitioner herein towards back wages. The Applicant (Original Respondent) was working as a driver with the Petitioner Corporation. His services came to be terminated on 7 September 1995. The termination was challenged by him in a complaint of unfair labour practice before the Labour Court. The Labour Court allowed the complaint directing the Petitioner Corporation to reinstate the Respondent employee with full back wages. This order was challenged by the Industrial Court. The revision was dismissed by the

Court. After the disposal of the revision, the Respondent employee was reinstated in service. It is, however, his case that he was put on a wrong pay scale, i.e. the pay scale which prevailed in the year 1995 and not in the year of reinstatement, namely, 1999. The order of the Industrial Court was challenged by the Petitioner in the meantime before this Court in a writ petition, being the present writ petition. The writ petition was admitted but no stay was granted to the impugned order. The Petitioner Corporation, in the premises, was to pay the interim arrears of salary to the Petitioner, including the remaining wages to the Petitioner. Since these wages were not fully paid, another complaint was filed by the Respondent employee with the Industrial Court. That complaint was allowed by the Court. Against that order, a writ petition was belatedly preferred by the Petitioner Corporation. By an order dated 21 November 2016, the Petitioner's readiness and willingness to deposit arrears of salary and clear other benefits of the Respondent employee was noted. In pursuance of that order, the arrears of back wages was deposited by the Petitioner Corporation in that writ petition. The writ petition, however, came to be dismissed on 2 April 2018. The amount deposited in the petition thereupon was transferred to the present petition. That is how the present civil application is made for withdrawal of the amount.

2. Since there is no stay of the order, the Petitioner Corporation cannot object to withdrawal of the amount by the Respondent employee. Learned Counsel for the Petitioner Corporation, however, submits that the writ petition, being of the year 2005, is ripe for hearing and may be taken up for hearing instead of passing an order

on the civil application.

3. Whilst the writ petition is indeed ripe for hearing and may be taken up by this Court, it is likely to take some time anyway, since this Court is considering the petitions of the year 2001 and 2002 at present.

4. In the premises, the following order is passed:-

(i) The civil application is allowed by permitting the Applicant to withdraw a sum of Rs.1 lakh from out of the amount deposited in Court. The Registry shall, accordingly, permit withdrawal to the Respondent. The balance amount shall remain invested in fixed deposit/s of a nationalized bank.

(ii) The Petitioner Corporation is also directed to work out the gratuity payable to the Respondent. Payment of gratuity shall be considered on the next occasion.

(iii) The petition is posted for final hearing on 19 July 2018.

(S.C. GUPTE, J.)