

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1807 OF 2018
IN
CIVIL WRIT PETITION NO. 5840 OF 2013

Kolhapur Dist. Bank Employees Union. ..Applicant.

In the matter of

Kolhapur District Central Co-op. Bank Ltd. ..Petitioner.

V/s.

Kolhapur District Bank Employees Union. ..Respondent.

Mr. Tejpal Ingale, advocate for applicant.

Mr. Abhay Nevagi a/w. Mr. Hafeez Patanwala a/w. Mr. Sandesh Shukla
I/b. Abhay Nevagi & Associates, advocate for respondent.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : OCTOBER 22, 2018.

P. C. :

1 Heard the learned Counsel for the Applicant and the
learned Counsel for the respondents.

2 The Kolhapur District Central Cooperative Bank Ltd. has
filed the present writ petition challenging the Judgment and Order dated
29/5/2013 passed by the Industrial Court, Kolhapur under Complaint No.
209 of 2009 thereby declaring that the Petitioner Bank is engaged in
unfair labour practice under Item 5, 6, 9 and 10 of Schedule IV of the
MRTU & PULP Act, 1971 by not granting permanency and permanency
benefits to the concerned employees mentioned in the Annexure-A on

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the posts of peons and therefore, the respondent bank shall cease and desist from engaging in unfair labour practice forthwith. A direction was given that the bank shall give permanency to all the concerned employees on the post of peon within one month. Being aggrieved by the said order, the bank has filed Writ Petition. Rule was issued in Writ Petition by order dated 16/4/2014 and its execution and operation of the impugned Judgment and Order dated 29/5/2013 was stayed. However, the bank was directed that the petitioner shall not terminate the services of employees listed in annexure A without following due procedure of law. Liberty was granted to the respondent to apply for seeking reasonable amount of wages to be paid to the members of employees. The present application has been filed by the original respondent seeking interim relief during the pendency of the Writ Petition.

2 The applicant Union consists of 109 employees. The original complainants are the peons working on daily wages between 2007 to 2009. They have put in more than 240 days of service. Their persistent request for regularisation was turned down by the bank. The record would indicate that initially, the applicants herein had filed an application seeking interim relief in the original complaint which was rejected. Being aggrieved by the same, the applicant herein had filed

Writ Petition No. 1186 of 2010 which was allowed vide order dated 1/7/2010. The record would indicate that the Complaint(ULP) was dismissed by the Industrial Court vide order dated 8/4/2011. Being aggrieved by the same, the applicants had filed Writ Petition No. 3667 of 2011, which was allowed vide order dated 29/2/2012 and the matter was remanded to the Industrial Court for reconsideration on merits.

3 It is the contention of the applicant that at present, the members of the applicant union are drawing ad-hoc salary of Rs. 10,000/- per month, whereas, the permanent employees engaged in same work are drawing salary of Rs. 30,000/- per month. According to the learned Counsel for the applicant, salary is even lower than the minimum wages, as statutory benefits are not extended.

4 The learned Counsel for the petitioner has drawn attention of this Court to the Judgment and Order dated 16/9/2016 passed by this Court (Coram: R.M. Sawant, J) in Writ Petition No. 11343 of 2011 filed by Tanaji Baburao Tanugade and has submitted that upon considering the evidence on record, the order passed by the Labour Court was upheld and the said petitioner was given continuity of service. The applicant submits that members of the applicant Union are going through a financial crisis and are not able to meet their day to day expenses in view

of the present inflation rate. The lis between the parties is pending for more than 9 years. The order of the Industrial Court has been stayed and since rule is issued in the year 2014, it may not be possible for hearing Writ Petition finally as per its turn and hence, it would be necessary to grant interim relief.

5 Heard the respective parties. The original Petitioner i.e. the bank has no justification for not granting the salary regularly at par with the permanent employees of the petitioner bank. Hence, during the pendency of this petition, the following reliefs needs to be granted to the applicant.

ORDER

(i) The employees of applicant union, excluding the employees, who have either resigned or retired from the services, shall be paid salary regularly at par with permanent employees of the Petitioner Bank from 1/11/2018. The permanency with continuity in service will be subject to the decision of this Writ Petition.

(ii) It is made clear that the services, which they have already rendered with the Petitioner Bank till permanency, shall be taken into consideration and counted for the purpose of continuity of their services and gratuity.

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(iii) The applicant union undertakes to the Court that they would not claim backwages in the eventuality that they are given permanency with continuity in service from 1/11/2018. However, the same would be subject matter of the final decision of the Writ Petition.

6 The application is allowed and disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]