

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.257 OF 2013
IN
WRIT PETITION NO. 2285 OF 2010**

**Maharashtra Rajya Mathadi & General
Kamgar Union**

..Applicant

In the matter between

Department of Posts

..Petitioner

Vs.

**Maharashtra Rajya Mathadi Transport
& General Kamgar Union & Ors**

..Respondents

**Mr. M. S. Topkar a/w Mr. R. D.Oak for the Applicant/ original
Respondent No.1**

Mr. G. Hariharan a/w Mrs Neeta Masurkar for the original Petitioner

Mr. S. B. Gore AGP for the Respondent No.3

**CORAM :R. M. SAVANT, &
NITIN W. SAMBRE, JJ
DATE : 17th OCTOBER, 2018**

P.C.

1 The above Notice of Motion has been filed seeking permission to withdraw a sum of Rs.9,23,812.28 paise as per the order dated 28-9-2012. The above Notice of Motion has been filed in the above Writ Petition which has been disposed of by judgment and order dated 28-9-2012 by a Division Bench of this Court S. A. Bobde (as His Lordship then was) and R. G. Ketkar JJ. The consequence of the said judgment and order is that the Mathadi Act and the Scheme are held not to be applicable to the original Petitioner i.e. Post

and Telegraph Department. Pending the Petition the original Petitioner i.e. Post and Telegraph Department had deposited a sum of Rs.14,84,869.10 paise as per the order which was passed by the Respondent No.2 Board. It is out of the said amount which has been deposited by the original Petitioner that the Applicant claims an amount of Rs.9,13,812.28 paise in terms of the calculations which are appearing in paragraph 5 of the Affidavit in Support of the Notice of Motion. The calculations as can be seen have been made on the basis that the toli in question which was assigned to the original Petitioner has worked in February 2008 till August 2008 on account of which wages coupled with the levy comes to an amount of Rs.4,41,338.92 paise. Hence taking the said amount from February 2008 till August 2008 and adding the amount of Rs.4,41,338.92 paise which is for the period May 2007 to January 2008, the total amount is calculated as Rs.9,13,812.28 paise.

2 On behalf of the original Petitioner, an Affidavit in Reply to the above Notice of Motion has been filed. In paragraph 4, the original Petitioner has calculated the amount payable to the Applicant to be an amount of Rs.4,41,339/- for the Period May 2007 to January 2008. It is the said amount which the Learned Counsel for the original Petitioner Mr. Hariharan states that the Applicant would be entitled to out of the amount lying deposited in this Court. The said amount as indicated above is the amount for the period when the Toli of the Applicant has actually carried out work according to the

original Petitioner.

3 The Learned Counsel appearing for the Applicant Mr. Topkar would reiterate the case of the Applicant in the Notice of Motion namely that the Toli of the Applicant has also worked from February 2008 to August 2008. However, faced with a dispute which has been raised by the Learned Counsel for the original Petitioner Mr. Hariharan in respect of the said period, the Learned Counsel for the Applicant Mr. Topkar does not press the said issue further. Hence the upshot of the Affidavit filed on behalf of the original Petitioner would be that out of the amount lying in deposit in this Court, the Applicant would be entitled to the amount of Rs.4,41,339/- with commensurate interest on the said amount to be calculated on pro-rata basis up to date. The above Notice of Motion is allowed to the aforesaid extent and is disposed of the office to pay the amount of Rs.4,41,339/- with accrued interest calculated on pro-rata basis within 4 weeks from date. The balance to be refunded to the original Petitioner with accrued interest also calculated on pro-rata basis.

4 The above Notice of Motion is accordingly disposed of.

[NITIN W. SAMBRE, J]

[R.M.SAVANT, J]