

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2326 OF 2015**

Canara Bank Staff Union

..Petitioner

Vs.

Canara Bank

..Respondent

**Mr. Vijay Parakash Yadav i/b Mr. Devmani Shukla for the Petitioner
Mr. P. N. Shah a/w Mr. Jay Vora for the Respondent**

**CORAM :R. M. SAVANT, &
K. K. SONAWANE, JJ
DATE : 14th SEPTEMBER, 2018**

P.C.

1 The above Writ Petition has been filed for a direction that the Respondent Bank be directed to give the 7 employees or members of the Petitioner Union their legal rights and benefits upon regularization of their services from their initial dates of appointments and more particularly benefits arising out of continuity of service with retrospective effect such as notional promotion, pension and gratuity to name a few as crystallized in the Award dated 20-11-1998, (Prayer clause (b) of the Petition).

2 In so far as the said Award is concerned, it is required to be noted that the Writ Petition filed by the Respondent Bank being Writ Petition No.1851 of 1999 a came to be dismissed by a Learned Single Judge of this Court on 27-7-1999. The Letters Patent Appeal filed against the said order also came to be dismissed. Thereafter it seems that the Petitioners not satisfied with the amount calculated by the Respondent Bank being the

differential amount on account of the regularization of 7 employees filed an application under Section 33(C)(1) read with the Rules before the Regional Labour Commissioner (for short “the Authority) of the Industrial Disputes Act. The said application was not entertained by the Authority, against that a Writ Petition was filed in this Court by the Petitioner Union being Writ Petition No.2960 of 2003. The said Writ Petition came to be allowed by a learned Single Judge of this Court and the order passed by the Authority came to be set aside and the matter came to be remanded back to the Authority for a de novo consideration. On remand the Authority once again dismissed the Application resulting in the Petitioner filing Writ Petition No.2402 of 2004. The said Writ Petition came to be allowed by a Learned Single Judge of this Court on 9-12-2004 and a direction came to be issued to the Respondent Bank to implement the Award.

3 In the instant Petition on behalf of the Respondent Bank an Affidavit in Reply has been filed. An objection to the maintainability of the above Petition is taken on the ground of delay as Award of the CGIT is dated 20-11-1998. It is further stated that differential amount Rs.4,21,773.92 paise has been paid by the Respondent Bank. It is therefore stated that the Award has been implemented in toto. In paragraph 15 it is denied by the Respondent Bank that any wrongful or illegal advantage of the concerned employees as alleged for any reason as alleged or at all or that any other benefits including

continuity of service or notional promotion or pension or gratuity as claimed. Hence the affidavit filed on behalf of the Respondent Bank discloses that the Award has been implemented by the Respondent Bank.

4 A rejoinder has been filed on behalf of the Petitioner Union disputing the said claim. A perusal of the rejoinder discloses that the demand and claim now sought to be made by the Petitioner Union appears to be one which is beyond what has been granted by the Industrial Court by the Award dated 20-11-1998

5 In our view, if the Petitioner has any grievance as regards the alleged non implementation of the Award in respect of aspects which according to them are covered by the Award, they would have to file appropriate proceedings. This court in its Writ Jurisdiction under Article 226 of the Constitution of India cannot go into the said factual aspects and record a finding. It is required to be noted that the Award was the subject matter of a Writ Petition in this Court being Writ Petition No.2402 of 2004 which was filed though not immediately but having some proximity to the Award which as indicated is dated 20-11-1998. In our view therefore no case for interference in the Writ Jurisdiction of this Court is therefore made out. The Writ Petition is accordingly dismissed.

[K. K. SONAWANE, J]

[R.M.SAVANT, J]