IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAO) NO.630 OF 2017
AND
MISC. CIVIL APPLICATION ST. NO. 10396 OF 2017
IN
WRIT PETITION NO. 3714 OF 2004(D)
(THE AMRAVATI ZILLA MAHILA SAHAKARI BANK LIMITED...VS.. ASSISTANT PROVIDENT FUND COMMISSIONER.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri S.S.Ghate, Advocate for Appellant.
Shri R.S.Sundaram, Advocate for Respondent.

CORAM : Z.A.HAQ, J.
DATED : MARCH 14, 2018.

CIVIL APPLN.(CAO) NO.630/2017.

Accepting the explanation given in the application, delay of 20 days in filing the review application is condoned.

The civil application is **allowed** accordingly. No costs.

MISC. CIVIL APPLICATION ST.NO.10396/2017.

Taken up for hearing.

2. The original petitioner seeks review of the judgment passed by this Court on 16th March, 2017 by which the petition filed by the applicant/ petitioner is dismissed and the order passed by the respondent authority under the provisions of the Employees' Provident Funds and

Miscellaneous Provisions Act, 1952 holding that the petitioner co-operative bank is liable to pay/deposit Rs.35,96,602/- towards provident fund and allied benefits for the Pigmy Deposit Collectors/ employees, is maintained.

3. The ground for review is that in case of some Pigmy Deposit Collectors, relationship of "employer-employee" does not exist and therefore, the liability of paying/depositing the contribution towards provident fund and allied benefits in case of those Pigmy Deposit Collectors cannot be fastened on the petitioner/bank. It is submitted that while delivering the judgment on 16th March, 2017 the petitioner bank was not represented, and from paragraph No.4 of the judgment it is reflected that Clause 12 and Clause 13 of the agreement between the petitioner bank and one of the Pigmy Deposit Collector was referred to which showed that the Pigmy Deposit Collector was employed by the petitioner bank with condition that he will not work or render any service of similar type or nature for any other Bank, Co-operative Society, Nidhi, Friendly Society or Association etc. and he will not appoint any sub-agent for collecting amount or for doing any other work as mentioned in the agreement. It is submitted that such clauses are not incorporated in the agreements entered into with all the Pigmy Deposit Collectors working for the bank.

4. The learned advocate appearing for the respondent has submitted that the petitioner has not placed anything on record to show that the agreements with other Pigmy Deposit Collectors are not of same type, as referred above. It is further submitted that in any case this cannot be the ground for seeking review of the judgment.

5. In the facts of the case, I find that the applicant/ petitioner has not been able to point out any error apparent on the face of the record which necessitates exercise of the review jurisdiction by this Court. However, to sub-serve the interests of justice, in my view, the petitioner bank should be given an opportunity to substantiate its claim before the respondent authority that the petitioner bank would not be liable to pay/ deposit contribution towards provident fund in case of such Pigmy Deposit Collectors who will not fall in the category of its employees as contemplated by the judgment delivered by the Division Bench of this Court in the case of *Pachora Peoples' Co-operative Bank Ltd. Vs. Employees Provident Fund Organization*, reported in **2017 (2) Mh.L.J. 946**.

6. With liberty to the petitioner-bank to approach the respondent authority for substantiating its claim, the review application is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

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