

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 619 OF 2018

Padmakar s/o Trimbakrao Mule
& another

Petitioners

Versus

The Chairman,
Maharashtra Gramin Bank
& another

Respondents

Mr. S.K. Adkine, advocate for petitioners.
Mr. U.R. Aute, advocate for respondents.

WITH
WRIT PETITION NO. 634 OF 2018

Sudhakar s/o Vishvanathrao Kulkarni
& another

Petitioners

Versus

The Chairman,
Maharashtra Gramin Bank
& another

Respondents

Mr. S.K. Adkine, advocate for petitioners.
Mr. U.R. Aute, advocate for respondents.

WITH
WRIT PETITION NO. 670 OF 2018

Kaduba s/o Rama Wagh

Petitioner

Versus

The Chairman,
Maharashtra Gramin Bank
& another

Respondents

Mr. S.K. Adkine, advocate for petitioners.
Mr. U.R. Aute, advocate for respondents.

**CORAM : PRASANNA B. VARALE AND
NITIN W. SAMBRE, JJ.
DATE : 1st April, 2019.**

P.C. :

Since all these three writ petitions involve a common issue and the respective counsel are in agreement that the petitions can be disposed of by common judgment, accordingly, with consent, the petitions are taken up for final disposal at admission stage.

2. It is the claim of petitioners that they have either retired or resigned from the services of the Gramin Bank after putting into more than 25 years of service. According to them, post resignation/retirement, the petitioners approached their employer for grant of leave encashment and other retiral benefits to the extent of salary for a period of 240 days. Since said request is not granted, the present petitions.

3. In Writ Petition No. 619/2018, there are two petitioners namely Padmakar Mule and Satish Bendre. Petitioner Padmakar was appointed as Clerk on 15.10.2081 and was compulsorily retired on 10.04.2014. So far as petitioner no. 2 Satish is concerned, he was appointed in August 1988 and he tendered his resignation on 31.12.2014.

4. In Writ Petition No. 634/2018, petitioner no. 1 Sudhakar Kulkarni, after he was appointed as Assistant Junior Rank Officer in the year 1987, while working as Branch Manager, came to be suspended on 05.10.2013 whereas his services were terminated on

14.03.2016. Petitioner no. 2 Vyankat came to be appointed as Clerk on 14.05.1980 and was promoted to the post of Branch Manager. He tendered his resignation on 13.07.2017.

5. In Writ Petition No. 670/2018, petitioner Kaduba came to be appointed as Assistant Junior Bank Officer on 21.09.2013 and was ordered to be removed from services in the year 2016.

6. In all these petitions, petitioners claim to be entitled for leave encashment payment and other benefits upto 240 days, pursuant to provisions of Maharashtra Gramin Bank (Officers and Employees) Service Regulations, 2010.

7. According to learned counsel for petitioners, entitlement of petitioners is based upon their number of years of service rendered with respondent-employer. Their status as that of resigned, terminated or compulsorily retired employee will have hardly any bearing over the relief claimed by them. Our attention is invited to Regulation 66 read with Regulation 61(4) of the aforesaid Regulations and also judgment of the Apex Court in the matter of State of Jharkhand and others Vs. Jintendra Kumar Srivastava and another reported in **(2013) 12 SCC 210** to substantiate their claim.

8. Learned counsel for the employer while opposing the claim submits that the claim of petitioners is not out of statutory rights. According to him, in case of termination or compulsory retirement order, departmental enquiry was preceded and as such, since the petitioners were punished, they are not entitled to the benefits under the Regulations.

9. Having dwelt upon the controversy, it is worth to observed here that in the matter of State of Zarkhand (supra), the Apex Court has held that a person cannot be deprived of benefit without authority of law which is a constitutional mandate as could be read and inferred from Article 300-A of the Constitution of India. The attempt to take away the part of the pension or gratuity or even leave encashment in the absence of statutory authority cannot be sustainable.

10. In the aforesaid backdrop, if this Court proceeds to appreciate the claim put forth by the petitioners, it cannot be inferred from the provisions of the Regulations of 2010 that in law the respondent-employer is authorised to deny the relief claimed by petitioners in the instant petitions.

11. Identical issue fell for consideration before this Court in Writ Petition No. 1347/2016 in which, the Division Bench of this Court pronounced judgment on 17.02.2017. In the said case, the Division Bench had an occasion to consider the provisions of Regulations 61(1) and 67 of the aforesaid Regulations which governs the service conditions of petitioners and the Division Bench was pleased to allow the petitions thereby directing respondent-employer to pay the amount of privilege leave encashment as per the lawful entitlement of petitioners considering the privilege leave standing to the credit of the petitioners. It was also directed to pay interest at the rate of 8% per annum on the amount to which the petitioners therein were held to be entitled to.

12. Once it is not in dispute that in a similar factual position, pursuant to the law which governs the dispute brought before this Court, this Court has granted relief, the judicial discipline warrants us to follow the same path. As such, all these petitions need to be allowed and are allowed accordingly.

13. We accordingly direct respondent-employer to forthwith process the prayer of the petitioners for grant of leave encashment payment upto 240 days, of course, upon calculating their entitlement to the aforesaid effect. Needless to say that, the amount to which the petitioners will be held entitled shall carry interest at the rate of 8% per annum.

14. With above observations, all the petitions stand allowed.

NITIN W. SAMBRE
JUDGE

PRASANNA B. VARALE
JUDGE

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