

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14140 OF 2019

VIJAY PRABHAKARRAO NAKAHATE
VERSUS
THE CHIEF EXECUTIVE OFFICER, THE PARBHANI
DISTRICT CENTRAL CO-OP BANK LTD.

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Advocate for Petitioner : Shri Koshti P.S.
AGP for Respondents: Shri Yadav-Lonikar S.R.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: November 28, 2019
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PER COURT :-

1. The petitioner / original complainant is aggrieved by the order of dismissed in default dated 27.4.2018. He has earlier preferred Misc. Application Restoration No. 17 of 2018, which was rejected by the order dated 13.3.2019, since the Industrial Court was rendered *functus officio* after 30 days. The petitioner approached this Court in Writ Petition No.9527 of 2019 and considering the decision of the learned Division Bench at Aurangabad in LPA No.3 of 2004 and the judgment in Dilip Vithal Jogdand Vs. Vaidyanath Urban Cooperative Bank [2007 II CLR 78 = 2007 (114) FLR 182], the petition was disposed off with liberty to the petitioner to prefer the present Writ Petition.

2. The learned Advocate appearing on behalf of the respondents

has strenuously opposed the petition. He submits that the petitioner was absent from the Industrial Court since March, 2017. The matter was listed for recording of the petitioner's evidence. Finally, the Industrial Court was left with no option but to dismiss the complaint, in default, on 27.4.2018. He approached the Industrial Court on 7.8.2018.

3. I find that the petitioner is a Graduate, who is working as a Clerk. His survival rests on the employment. As several other workers have been granted regularization, he is desirous of getting a permanent employment.

4. In view of the law laid down in the matter of Collector, Land Acquisition Anantnag and another Vs. Mst. Katiji and others [(1987) 2 SCC 107], and Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others [(2013) 12 SCC 649], neither would the petitioner get benefit from letting his complaint being dismissed in default, nor would he deliberately delay his own proceedings.

5. In view of the above, this petition is allowed on payment of costs of Rs.1,000/-. The impugned order dated 27.4.2018 is quashed and set aside and Complaint (ULP) No.253 of 2016 is restored to the

file of the Industrial Court, Jalna. The litigating parties would appear before the Industrial Court on 20.12.2019 and formal notices need not be issued. The petitioner shall henceforth be diligent in his matter.

6. By the consent of the respondent / Bank, the amount of Rs.1,000/- shall be deposited, on/or before 16.12.2019 (for the treatment of poor patients) with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, either in cash or by Demand Draft (Demand Draft be drawn in the name of “**Dean, Government Medical College and Hospital Dengi Samiti, Aurangabad**”).

(RAVINDRA V. GHUGE, J.)

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