

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11326 OF 2016

1. Tukaram s/o Bhaguji Shinde,
Age : 53 years, Occ : Service
As Incharge Branch Manager,
Ahmednagar District Agricultural and
Rural Multipurpose Development
Bank, Branch Karjat, Tq. Karjat,
Dist. Ahmednagar, R/o Shrigonda
Factory, Tq. Shrigonda,
Dist. Ahmednagar
2. Shaligram s/o Tukaram Kusmude,
Age : 52 years, Occ : Service
As Branch Accountant,
Ahmednagar District Agricultural and
Rural Multipurpose Development
Bank, Branch Rahuri, Tq. Rahuri,
Dist. Ahmednagar, R/o Hanuman Nagar,
Wambori, Tq. Rahuri, Dist. Ahmednagar
3. Shivaji s/o Devram Gore,
Age : 51 years, Occ : Service
As Incharge Branch Manager,
Ahmednagar District Agricultural and
Rural Multipurpose Development
Bank, Branch Sangamner, Tq. Sangamner,
Dist. Ahmednagar, R/o Galli No. 2,
Sangamner, Tq. Sangamner,
Dist. Ahmednagar
4. Gorakshnath s/o Murlidhar Pabal,
Age : 53 years, Occ : Service,
As Peon, Ahmednagar District Agricultural
and Rural Multipurpose Development
Bank, Branch Sangamner, Tq. Sangamner,
Dist. Ahmednagar, R/o Panodi,
Tq. Sangamner, Dist. Ahmednagar
5. Nilima w/o Sudhir Madiwale,
Age : 52 years, Occ : Service
As Clerk, Head Office, Ahmednagar
District Agricultural and Rural Multipurpose
Development Bank, Main Branch
Ahmednagar, Tq. & Dist. Ahmednagar,
R/o Burudgaon Road, Ahmednagar,
Tq. & Dist. Ahmednagar

6. Ashok s/o Nivrutti Kaygude,
Age : 53 years, Occ : Service
As Accountant, Ahmednagar District
Agricultural and Rural Multipurpose
Development Bank, Branch Karjat,
Tq. Karjat, Dist. Ahmednagar,
R/o Ganeshwadi, Khed, Tq. Karjat,
Dist. Ahmednagar
- 7 Chandrakant s/o Namdeo Dhongade,
Age : 58 years, Occ : Service,
As Peon Ahmednagar District Agricultural
and Rural Multipurpose Development
Bank, Branch Rahuri, Tq. Rahuri,
Dist. Ahmednagar, R/o Maharwadi Road,
Rahuri, Tq. Rahuri, Dist. Ahmednagar
- 8 Dipak s/o Dattatraya Gadakh,
Age : 46 years, Occ : Service,
As In Charge Bank Manager, Ahmednagar
District Agricultural and Rural Multipurpose
Development Bank, Branch Rahuri,
Tq. Rahuri, Dist. Ahmednagar,
R/o Brahamani Road, Wambori,
Tq. Rahuri, Dist. Ahmednagar
- 9 Ambadas s/o Shankar Gaikwad,
Age : 54 years, Occ : Service,
As Incharge Manager, Ahmednagar
District Agricultural and Rural Multipurpose
Development Bank, Branch Shevgaon,
Tq. Pathardi, Dist. Ahmednagar,
R/o Nath Nagar, Pathardi,
Tq. Pathardi, Dist. Ahmednagar ...PETITIONERS

Versus

1. The State of Maharashtra,
Through its Secretary,
Co-operative Department,
Mantralaya, Mumbai-32.
2. The Commissioner for
Cooperation and Registrar
Co-operative Societies,
Maharashtra State, Central
Building, Pune

3. The Additional Registrar
Co-operative Societies and Liquidator
Maharashtra State, Cooperative
Agricultural Rural Multipurpose
Development Bank Ltd., Mumbai
4. The District Deputy Registrar
And Administrator/Liquidator of
District Cooperative and
Agricultural Rural Multipurpose
Development Bank Ltd., Ahmednagar
5. The District Cooperative Agricultural
Rural Multipurpose Development
Bank Ltd., Head Office Ahmednagar,
Through its Manager ...RESPONDENTS

Mr. A.V. Indrale Patil, Advocate for Petitioners
Mr. S.P. Sonpawale, A.G.P. for Respondent Nos. 1, 2 and 4
Mr. K.J. Suryawanshi, Advocate for Respondent No. 3
Mr. V.H. Dighe, Advocate for Respondent No. 5

**CORAM : PRASANNA B. VARALE AND
ANIL S. KILOR, JJ.**

DATE : 13th NOVEMBER, 2019

ORAL JUDGMENT (Per Anil S.Kilor, J.)

1. This Court, on 10th August, 2017, had issued Rule in the present matter. Today, the matter has come up for hearing and accordingly, it is heard and disposed of in view of the observations made herein below.

2. In the present petition, the petitioners made following prayers -

(A) This writ petition may kindly be allowed with cost.

(B) Rule be issued and same may be made returnable forthwith.

(C) By issuing appropriate writ, order or directions, the impugned Circular dated 31.10.2015 issued by the respondent No. 2 be quashed and set aside same being contrary to Government Resolution dated 24.07.2015. Consequently the termination of the petitioners w.e.f. 31.12.2015 be quashed and set aside and they be reinstated in service with full back wages and consequential benefits and for that purpose necessary directions be issued.

(D) Pending admission, hearing and final disposal of this writ petition, the respondent, particularly, respondent No. 3 and 4 be directed to reinstate the petitioners in service and they be further directed to pay regular salary of petitioners.

From the prayers, particularly prayer clause (C), it is clear that the second part of the said prayer in respect of quashing and setting aside termination and grant of reinstatement in service with full back wages and consequential benefits, the petitioners have alternate remedy in that regard. As far as the first part of the prayer in relation to the challenge raised to the Circular dated 31.10.2015, is concerned, after hearing the petitioners and the respondents, it is revealed that the petitioners though pleaded in the Petition that they were terminated, in fact, they on their own applied for voluntary retirement and the said request of the petitioners was accepted by the respondents-authorities and the petitioners were relieved accordingly from the service.

3. The impugned Circular dated 31.10.2015 is in respect of the various steps to be taken in respect of banks, which are under liquidation. Clause 7 of the said Circular is in respect of termination of services of employees working in the bank under liquidation and who have not filed any writ petition in the High Court.

4. Though the petitioners are claiming that they are terminated as pointed out above, it is clear from the record that they had applied for the voluntary retirement and their request was accepted, and therefore, the case of the petitioners that they were terminated, cannot be accepted. In the light of above referred fact, the Circular dated 31.10.2015 would not apply to the present case and, therefore, the challenge to the said Circular does not survive.

5. In the said backdrop as pointed out above, the main challenge to the Circular does not survive, for the second part of the prayer clause (C), relating to reinstatement and monetary claims, the petitioners have alternate remedy. In the light of the said fact, the learned Counsel for the petitioners Shri Indrale Patil prayed for withdrawal of the present Petition with liberty to approach to the appropriate forum for raising the grievance in respect of the alleged termination and monetary benefits including compensation.

6. The prayer for withdrawal of the petition made by the learned Counsel for the petitioners Shri Indrale Patil is accepted and the petitioners are permitted to withdraw the petition with liberty as

prayed for.

7. At this stage, it is necessary to state that in case, the petitioners file the appropriate proceedings before the appropriate forum, the period spent in perusing present petition shall not be considered as delay, at the time of calculating the period of limitation. The petition is accordingly disposed of with no order as to costs.

8. Rule stands discharged.

[ANIL S.KILOR]
JUDGE

[PRASANNA B. VARALE]
JUDGE

mta