

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**910 CIVIL APPLICATION NO.726 OF 2019
IN CP/318/2017**

VIJAY BHASKARRAO DESHMUKH
VERSUS
VIJAY MANIKCHAND BHANDARI

...
Advocate for Applicant : Shri Rahul R. Karpe
Advocate for Respondent : Shri A S Gandhi
...

CORAM : P.R.BORA, J.
DATE: 22nd March, 2019

PER COURT:-

1 Heard Shri R.R.Karpe, learned Counsel appearing for the applicant and Shri A.S.Gandhi, learned Counsel appearing for the respondent – original petitioner.

2 The applicant is praying for permitting withdrawal of 25% amount deposited by the respondent Management in this Court in pursuance of the order passed by this Court on 24.01.2017. This Court has directed the respondent Management to deposit 25% of the back wages while staying the execution of the order in respect of the back wages passed by the Grievance Committee.

3 It is informed that in pursuance of the order passed by this

Court on 24.01.2017, the present applicant has been reinstated and is being regularly paid his wages. The learned Counsel for the respondent submits that the present applicant has been paid the salary amount of Rs.4,82,387/- initially from the respondent Management on an undertaking filed by the applicant to refund the said amount after the salary amount is paid to him from salary grants received from the Government. The learned Counsel submitted that though after receiving grants, the salary arrears as aforesaid are paid to the applicant, he did not refund the said amount adhering to his undertaking. The learned Counsel for the respondent submits that the applicant is supposed to refund the said amount first. About the request to permit the applicant to withdraw amount of 25% of back wages, the learned Counsel submitted that, withdrawal can be permitted only after petition is finally heard. The learned Counsel in the circumstances, opposed for granting any withdrawal of amount.

4 After having considered the submissions of the learned Counsel for the parties, it appears to me that the applicant is in services of the respondents and if at all any excess amount is paid to him, that can be recovered by the respondent management from his future salary and to that effect some undertaking can be secured from the applicant. In the

circumstances, by deducting the amount of Rs.4,82,387/-, which the applicant had agreed to refund to the respondent management, the remaining amount can be permitted to be withdrawn by him on submitting solvent surety/security in the like amount and on an undertaking that if any adverse order is passed, he will refund the said amount to the respondent management within three months from the date of the said order. Hence, the following order:-

ORDER

- I) From the amount deposited by the respondent, a sum of Rs.4,82,387/- shall be refunded to the respondent with interest, if any, accrued thereon.
- II) The balance amount be paid to the applicant with interest, if any, accrued thereon, on submitting solvent surety/security in the like amount and an undertaking that if any adverse order is passed, the applicant will refund the said amount to the respondent within three months from the date of passing of such order.
- III) Application stands disposed of in the aforesaid terms.

(P.R.BORA)
JUDGE