

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

WRIT PETITION NO.856 OF 2017

(THE BHANDARA URBAN COOP. BANK LTD & ANR...VS.. ABDUL GANI ABDUL SATTAR SHEIKH & ANR.)

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

Court's or Judge's orders

Shri N.L.Jaiswal, Advocate for Petitioners.
Shri R.A.Gupte, Advocate for Respondent Nos.1(a) to 1(d).
Ms Tajwar Khan, A.G.P. for Respondent No.2.

CORAM : Z.A.HAQ, J.

DATED : JANUARY 22, 2019.

Heard.

The petitioners/ employer have challenged the judgment passed by the Industrial Court by which the complaint filed by the employee [predecessor of the respondent Nos. 1(a) to 1(d)] is allowed and the claim of the employee that the employer has illegally denied him benefits under the “*Sewa Antargat Aasvashit Pragati Yojana*” (In Service Assured Progress Scheme) is upheld.

According to the employer, the claim of the employee for the benefits under the “*Sewa Antargat Aasvashit Pragati Yojana*” was not considered as according to the Rules approved by the District Deputy Registrar, Cooperative Societies on 31st October 1990, the claim of the employee was required to be examined considering the confidential reports and performance of the employee during the preceding five years and as the employee was earlier dismissed from the service on 25th September 1997 and then was reinstated on 1st August 2011, the confidential reports of the employee for the

preceding five years were not available when the Staff Committee met on 20th July 2012. It is further submitted that criminal case was pending against the employee on 20th July 2012 when the Staff Committee met for considering the claim for promotion and for this reason also the claim of the employee was not considered.

The learned advocate for the respondent Nos. 1(a) to 1(d) has pointed out that though the employer had filed its written reply before the Industrial Court, it failed to lead evidence to substantiate its contentions. It is further submitted that the employee was acquitted by the learned Magistrate by judgment dated 3rd March 2015 and though the State had filed appeal the same is also dismissed. It is argued that the Industrial Court has considered all the relevant aspects and the impugned order does not require any interference by this Court in the extraordinary jurisdiction.

In the written reply filed by the employer before the Industrial Court, it is stated that the Staff Committee had passed resolution No.6 in its meeting held on 20th July 2012 deferring the consideration of the claim of the employee for the benefits under the “*Sewa Antargat Aasvashit Pragati Yojana*”, till decision of the criminal case. For reasons best known to the employer, the resolution No.6 passed by the Staff Committee in its meeting dated 20th July 2012 is not produced. In the written reply, the employer has not stated that the Staff Committee had not considered the claim of the employee for the benefits under the “*Sewa Antargat Aasvashit Pragati Yojana*”, as confidential reports for the proceeding five years were not available. And this cannot be the reason also, as the confidential reports of the preceding five years were

not available with the employer. The only reason for not granting the benefits under the “*Sewa Antargat Aasvashit Pragati Yojana*” to the employee was pendency of the criminal case and as the employee is acquitted, he is entitled for the benefits under the “*Sewa Antargat Aasvashit Pragati Yojana*”.

I find that the Industrial Court has rightly appreciated the controversy. It cannot be said that the Industrial Court has committed any illegality or error of jurisdiction which necessitates interference by this Court in the extraordinary jurisdiction.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

The petitioners (employer) shall make available to the respondent Nos.1(a) to 1(d), the emoluments as directed by the Industrial Court till 15th April 2019.

If the employer fails to comply within the stipulated time, the petitioners will be liable to pay interest on the amount receivable by the respondent No.1(a) to 1(d) @9% per annum, the interest being chargeable from the date of filing of the complaint i.e. from 1st October 2012 till the amount is paid / deposited.

JUDGE