

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11928 OF 2013

Karbhari Tabaji Sangole. ... Petitioner.

V/s.

The General Manager (AOD), Overhaul
Division, Hindustan Aeronautical Limited
and others.

... Respondents.

WITH

WRIT PETITION NO. 11929 OF 2013

Pundalik P. Jopale. ... Petitioner.

V/s.

The General Manager (AOD), Overhaul
Division, Hindustan Aeronautical Limited
and others.

... Respondents.

WITH

WRIT PETITION NO. 11930 OF 2013

Sawaliram Gopal Tidme. ... Petitioner.

V/s.

The General Manager (AOD), Overhaul
Division, Hindustan Aeronautical Limited
and others.

... Respondents.

WITH

WRIT PETITION NO. 12065 OF 2013

Mrunal Sunil Gite. ... Petitioner.

V/s.

The General Manager (AOD), Overhaul
Division, Hindustan Aeronautical Limited
and others.

... Respondents.

Mr.Tushar Sonawane for the Petitioners.

Mr.Amrut Vernekar for Respondent No.1.

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CORAM : **NITIN JAMDAR AND
M.S. KARNIK, JJ.**

DATE : **6 February 2020.**

P.C. :

All these Petitioners were working with Respondent No.1- Hindustan Aeronautical Limited. The Petitioners, apart from working with Respondent No.1, were also office bearers of the Employees Co-operative Credit Society. Criminal proceedings were initiated against the Petitioner for misappropriation of the amounts. On the ground that criminal proceedings were pending against the Petitioners, certain benefits were sought to be denied to the Petitioners by Respondent No.1. The Petitioners made a representation that they should be given benefit of time-scale promotion scheme which representation has been rejected by Respondent No.1 by the impugned communication.

2. The Respondent No.1. referred to a Circular dated 25 February 1987 wherein it was laid down that employees against whom criminal proceeding pending are not to be considered for appointment/ promotion till the final disposal the said proceedings.

The Petitioners' case is that they have filed criminal application in this Court wherein Rule has been issued and the criminal proceedings have been stayed. On this ground the Petitioners seek a direction to Respondent No.1 to release the benefits available to them as, according to the Petitioners, in view of stay granted by this Court, the criminal proceedings cannot be considered as pending. Reply affidavit has been filed. It is stated that in view of the circular, benefits have not been given to the Petitioners and as soon as the Petitioners succeed in the criminal proceedings, the benefits due to them will be given retrospectively.

3. We are informed that the Petitioners in Writ Petition Nos.11928/2013, 11929/2013 and 11930/2013 have superannuated from service and the Petitioner in Writ Petition No.12065/2013 is still working.

4. There is no challenge to the circular dated 25 February 1987 before us. The language of the Circular is clear. It refers to the pendency of the criminal proceeding. Even though criminal proceedings are stayed, that would only mean that they will not proceed, but they will remain pending. It is not possible to accept the contention of the Petitioners that in view of the stay granted by this Court, Circular dated 25 February 1987 will not apply. Therefore, we find no error in the impugned order issued by Respondent No.1. It is stated that the circular itself contemplates that if the decision of criminal proceedings is in favour of the

Petitioners, the benefits can be given to the Petitioners retrospectively.

5. The learned counsel for the Petitioner sought to contend that upon superannuation certain retirement benefits are not given to the Petitioners who retired on superannuation. No such grievance is made in these petitions. Apart from the controversy raised in these petitions, if the Petitioners are entitled to any benefit as per law, we see no reason to hold that the Respondent No.1 will not extend the same.

6. Writ petitions are accordingly dismissed.

(M.S. KARNIK, J.)

(NITIN JAMDAR, J.)