IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 109 OF 2021

Khushal Sambhaji Kadam
Age : 64 years, Occu. Retired,
R/o Bellali, Tq.Mukhed
District Nanded. ..**PETITIONER**

VERSUS

Chief Manager
The Nanded District Central
Co operative Bank Ltd. Nanded
Main office – Station Road,
Nanded ..**RESPONDENT**

.....

Mr. U.B.Deshmukh,Advocate for the petitioner
Mr. R.K.Ingole h/f Avinash Hande, Advocate for Mr. Respondent

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CORAM : MANGESH S. PATIL, J.
DATE : 03/09/2021

ORAL JUDGMENT :-

Heard. Rule. The Rule is made returnable forthwith. The learned advocate for the respondent waives service. With the consent of both the sides the matter is heard finally at the stage of admission.

2] The petitioner is impugning the judgment and order dated 4/9/2019 passed by the learned Judge of the Labour Court, Nanded allowing his application under Section 33-C of the Industrial Disputes Act, 1947 but only partly.

3] After hearing both the sides it transpires that a specific Issue No.2 was framed as under :

> “2] Whether the applicant is entitled for increments from year 2005 and also entitled to recovery of deduction of 15% salary from year 2005, made by the respondent?

4] The learned Judge has given reasons while answering this issue in the negative, in paragraph no.12 which reads thus :

> “12] Respondent’s witness Raju Zambare admitted that since the year 2005, 15% of the salary of the applicant has been deducted by the bank. However, he deposed that there was financial crisis in the bank and Reserve Bank of India issued certain directions under Section 35A of the RBI Act. Therefore, 15% of the salary of all the bank employees were deducted under an agreement with the bank employees. To support such contention, copy of agreement is filed vide Exh. C-11 wherein there is mention about such deduction. The agreement appears to have been executed between the bank and employees’ organization. The letter Exh.C-12, support the contention that directions have been issued by Reserve Bank of India under Section 35 A of the Banking Regulation Act, 1949 for taking various measures, including reducing the expenses towards salary. The bank resolution at Exh. C-13 reflect that 15% deduction from the salary of the employees has been stopped by the bank from the year 2009. Respondent’s witness also deposed to that effect in his evidence. Under these circumstances, the applicant is not entitled to claim 15% of deduction made from his salary during the period 2005 to 2009. Accordingly, I answer this issue

in the negative."

5] As can easily be appreciated, when the petitioner was specifically putting up a grievance regarding non release of increments and deduction in salary to the extent of 15%, the discussion in paragraph no.12 of the impugned judgment only restricts the reasons for 15% deduction in the salary. There is absolutely no whisper so far as the claim of the petitioner for increments is concerned. It is in view of such peculiar state of affairs, there is no alternative but to remand the matter for decision afresh to the extent of the claim of the petitioner for the increments which is a part of Issue No.2.

6] The Writ Petition is allowed. The impugned judgment and order to the extent discussed hereinabove is quashed and set aside. The matter is remanded to the Labour Court. The learned Judge shall now permit both the sides to lead evidence touching the aspect of claim regarding increments and decide the matter afresh only to that extent. Rule is made absolute in above terms. The learned Judge shall make every endeavour to decide the matter as early as possible.

7] The Rule made absolute.

[MANGESH S. PATIL, J.]

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