

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

23 WRIT PETITION NO. 817 OF 2021

**KARBHARI JANARDHAN BOMBALE & OTHERS
VERSUS
THE ASSISTANT COMMISSIONER PROVIDENT FUND
COMMISSIONER & OTHERS**

...

Advocate for the petitioners : Mr.S.B.Choudhary
AGP for Respondent-State : Mrs.R.P.Gaur
Advocate for Respondent no.1 : Mr.N.K.Chaudhari

...

**CORAM : RAVINDRA V. GHUGE &
S.G.DIGE, JJ.**

DATE : 18.04.2022

P.C. :

1. Despite service of Court notice on respondent nos.2 and 3, no appearance has been entered.
2. We have heard the learned Advocate for the petitioners and the learned Advocate representing respondent no.1 Provident Fund Authorities.
3. There are several issues, which according to us, appear to be disputed, as under:-

- a) Whether these petitioners are seasonal permanent.
- b) If yes, whether they were being paid approved retention allowance during the off-season.
- c) The retention allowance is disputed by the respondent and the Provident Fund contributions were not deposited.
- d) Whether the pension can be computed on the basis of uninterrupted service throughout 12 calendar months in each year on the basis of the petitioners purportedly being seasonal permanent.

4. We are of the view that the petitioners can advantageously approach the Industrial Court / Tribunal either under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practice Act, 1971, in the event of there being little delay or no delay at all, OR alternatively, they can raise an industrial dispute under Section 2 (k) of the Industrial Disputes Act, 1947 seeking a reference to the Industrial Tribunal.

5. The learned Advocate for the petitioners, therefore, submits on instructions that the petitioners would avail of a remedy of approaching the Industrial Court or Industrial Tribunal under any of the two Acts and this petition may be disposed off as withdrawn.

6. In view of the above, this petition is disposed off as withdrawn.

7. The time spent by the petitioners in this Court from 28.09.2020 till the passing of this order, would be considered as a good ground for condonation of delay, if any.

8. All the contentions of the petitioners are left open so as to be agitated before the appropriate Forum.

[S.G.DIGE, J.]

[RAVINDRA V. GHUGE, J.]