

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.572 OF 2017

The Osmanabad Janta Sahakari Bank Ltd.,
through it General Manager and Another

.. Petitioners.

Versus

Pradeep s/o. Vitthalrao Gond

.. Respondent

WITH

WRIT PETITION NO.576 OF 2017

The Osmanabad Janta Sahakari Bank Ltd.,
through it General Manager and Another

.. Petitioners.

Versus

Mohan s/o. Dadarao Agawane

.. Respondent

WITH

WRIT PETITION NO.592 OF 2017

The Osmanabad Janta Sahakari Bank Ltd.,
through it General Manager and Another

.. Petitioners.

Versus

Vijaykumar s/o. Vishwanath Hanchate

.. Respondent

WITH

WRIT PETITION NO.12875 OF 2016

The Osmanabad Janta Sahakari Bank Ltd.,
through it General Manager and Another

.. Petitioners.

Versus

Mahadeo s/o. Shankar Mali

.. Respondent

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Mr. A.N. Irpatgire, Advocate for the Petitioner, in all petitions.

Mr. A.V. Patil, Advocate for the Respondent-sole, in all petitions.

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CORAM : SHARMILA U. DESHMUKH, J.

DATED : JANUARY 18, 2023.

PER COURT :

1. Since all the petitioners are similarly placed, the writ petitions have been disposed of by a common order.

2. The applications were preferred by the Respondents herein, invoking the provisions of Section 33(c)(2) of the Industrial Disputes Act, 1947, subsequent to the dismissal of the writ petitions challenging the orders of the Industrial Court granting reinstatement and continuity and in service with full backwages, wherein this court restricted the backwages to 70% upholding the reinstatement and continuity in the service. On account of non-compliance by the petitioners, the Respondents were constrained to approach the Labour Court for seeking recovery of the amount due to them. In the complaint, the Respondents had set out the various heads, under which the amounts were claimed taking into consideration the relief of reinstatement and continuity in service and as such sought benefit of the various increments.

3. In the complaint, initially, the petitioners had denied that the complaint itself was maintainable as also the liability to pay under the various heads. Upon considering all the evidence on record the Labour Court by its judgment dated 18.03.2016 directed the payment.

4. Heard learned counsel appearing for the parties.

5. Learned counsel for the petitioners submits that although the entitlement of the respondents to the amounts claimed was initially disputed, at this stage, only submission is that chart which

was produced by the petitioners, which is annexed to the affidavit-in-reply filed by the Respondents has not been considered by the Labour Court and only calculation of the amounts produced by the respondents annexed at page Nos.76 to 80, was considered by the Labour Court. He would further submit that in the affidavit-in-reply, it has been admitted by the respondents that the Labour Court has granted amount in excess of the due amount.

6. *Per contra*, the learned counsel for the Respondents submit that the Labour Court has taken into consideration the increments, which were due to the Respondents by virtue of grant of continuity in service and as such the chart submitted by the respondents was rightly considered. However, he fairly concedes that the chart which was submitted by the petitioners has not been considered by the Labour Court.

7. After considering the submissions of both the parties, as fairly conceded by both the counsel for the parties, the controversy stands limited to only the consideration of relevant charts produced by the petitioners and the respondents before the Labour Court and to reconcile the amounts which have been stated therein and pass order accordingly.

8. In view of this matter, in my opinion, it would in the interest of justice, if the matter is remanded to the Labour Court only for the purpose of reconciling the charts produced by the petitioners and the Respondents before the Labour Court and come to a finding as regards the entitlement of the respondents under the various heads.

It is made clear that no further evidence is required to be led in the matter and the only exercise to be done by the Labour Court is the reconciliation of these two charts. Parties are at liberty to place for consideration before the Labour Court, the documents on the basis of which the charts have been prepared by them, in order to enable the Labour to arrive at conclusive finding.

9. Both the parties will cooperate and will ensure that no adjournments are sought. The Trial Court to arrive at a decision of the entitlement of the respondents based on reconciliation of the chart produced by the petitioners and the chart produced by the respondents, as expeditiously as possible and in any event within a period of six weeks. The documents, if any, which the parties desire to produce, to be produced within a period of one week from the date of this order.

10. Pursuant to the order of this Court, the Petitioners have deposited the amounts awarded by the Labour Court in this Court, which will remain deposited in this Court, with liberty to the parties to take out civil application for seeking orders in respect of the said amount after the entitlement has been decided by the Labour Court.

11. Writ Petitions stand disposed of accordingly.

(SHARMILA U. DESHMUKH, J.)