Pooja K.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 192 OF 2016

Marathwada Sarva Shramik Sanghatana,
Registration No. AWB 121, Trade Union Centre,
Mahavirnagar, Nanded,
Through its Secretary
Shri. Bapurao Keshavrao Panchal,
Age : 65 years, Occu.: Social Service, … Applicant
R/o. : Mahavirnagar, Nanded, Dist. Nanded (Orig. Complainant)

Versus

The State of Maharashtra
Through Deputy Conservator of Forest,
Forest Division, Near Gandhi Statue, … Respondent
Nanded, Tq. and Dist. Nanded (Orig. Respondent)

…

Mr. A.S. Shelke – Advocate for Applicant
Mr. S.B. Pulkundwar – AGP for sole Respondent, State

….

CORAM : GAURI GODSE, J.
DATE : 19th January, 2023

ORAL JUDGMENT :

1. This Civil Revision Application is filed under sub-rule (v) of Rule 4 of Chapter V of the Bombay High Court Appellate Side Rules, 1960 for challenging the order dated 5th October, 2016 passed by the learned Taxing Officer in Writ Petition Stamp No. 15210 of 2016. By the impugned order the learned Taxing Officer has upheld the office objection of deficit court fees of Rs.3,000/- on the petition filed by the

present revision applicant.

2. The writ petition was filed by the applicant under Articles 226 and 227 of the Constitution of India, for challenging the order dated 6th July, 2015 passed by the learned Member, Industrial Court, Jalna in Revision (ULP) No. 53 of 2014 arising out of the judgment and order dated 31st January, 2014 passed by the learned Judge Labour Court, Nanded in Complaint ULP No. 13 of 2006.

3. It is the case of the applicant that, the original complaint was filed by the applicant – Union and the petition was arising out of the complaint originally filed by the Union. In the complaint a list of 12 employees, was annexed at Annexure – 'A'. It is the case of the applicant that, the writ petition was also filed only by the Union and while presenting the writ petition the applicant had paid court fees of Rs.250/. However, the Registry raised an objection about the non-payment of deficit court fees to the tune of Rs.3,000/-.

4. The applicant had disputed the objection raised by the office as regards the deficit court fees by contending that, as the Union was the only petitioner in the Writ Petition, the court

fees payable would be only Rs.250/-. Hence, the office had placed the matter before the learned Registrar (Judicial), who referred the matter to the learned Taxing Officer by order dated 24th October, 2016.

5. The learned Taxing Officer upon hearing the advocate for the applicant held that, the court fee of Rs.250/-was payable separately for each of the 12 employees, who were named in Annexure – ‘A’ of the complaint. The learned Taxing Officer had placed reliance on the decision of the Hon’ble Division Bench of this Court in the case of *Ravindra Dattatraya Choudhary and Ors. Vs. The State of Maharashtra and Others*[1]. The learned Taxing Officer by placing reliance on the said decision held that, even in service matters, in cases claiming promotion, though number of petitioners file a joint petition, they would be agitating independent grievance of claiming promotion for themselves and would be required to be treated as aggrieved independently. Thus, the learned Taxing Officer held that, the court fees that would be required to be paid in the petition, would be per employee and not one set of court fees for the entire petition. Thus, the

1 Writ Petition No. 9106 of 2010 dated 7th October, 2010

learned Taxing Officer held that, deficit court fee is required to be paid to the tune of Rs. 3,000/- which was rightly calculated by the office.

6. Being aggrieved by the order passed by the learned Taxing Officer, the petitioner in the writ petition, has filed this civil revision application. It is submitted on behalf of the applicant that, though the original complaint was filed for the benefit of 12 employees who were named at Annexture – ‘A’, the complaint was filed by the Union and the writ petition was also filed by the Union. The individual employees were neither party to the complaint nor to the revision filed before the Industrial Court. It was further submitted that the learned Taxing Officer has mis-interpreted the decision of this Court in the case of *Ravindra Chaudhary*. It was submitted that this Court, in the said decision held that, in a joint petition when independent orders passed against each petitioner are challenged, the petitioners would have to be treated as aggrieved independently and court fee would be payable per petitioner.

7. The learned advocate for the applicant has relied upon a

decision of learned Single Judge of this Court in case of *Machindra Rambhau Chavan Vs. Ahmednagar Forging Ltd*[2]. He submitted that this decision was considered in the case of *Ravindra Choudhary*. By relying upon both the said decisions it was submitted that where it appears to the Court that causes of actions are distinct and separate and each of the petitioners should in fact have filed a separate petition, the court fee would be payable per petitioner. It was submitted that the petition filed by the applicant was arising out of orders passed by the Labour Court and the Industrial Court in proceedings initiated by the Union. The petition was also filed only by the Union and there were no distinct causes of action. It was submitted that the learned Taxing Officer erroneously placed reliance on the list of employees annexed to the original complaint for holding that court fees will be applicable to each of the employee as per the list annexed. Thus, it was submitted that the impugned order was liable to be set aside.

8. The learned AGP supported the impugned order and submitted that the learned Taxing Officer had rightly held

2 BLR 2003 105 259, LAWS (BOM) 2002 10 133, MHLR 2003 1 806

that the court fee was applicable as per the number of employees listed in the annexure to the complaint. He submitted that the Union had filed the writ petition for the benefit of the twelve employees named in the list. Hence, court fee will be applicable to each employee as per the list. Thus, he submitted that there was no merit in the submissions made on behalf of the applicant and the revision application be dismissed.

9. I have considered the submissions made. It is necessary to examine the relevant provisions of the Maharashtra Court Fees Act,1959. Clause (f) of Entry 1 of Schedule II of the Maharashtra Court Fees Act, applicable for Application or petition, reads as under :

" (f) When presented to the High Court –

(i) for directions, orders or writs, under article 226 of the Constitution for any purpose other than the enforcement of the fundamental rights conferred by Part III thereof;
(One hundred twenty-five rupees)

(ii) for directions, orders or writs, under article 226 for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for the exercise of its jurisdiction under article 227 thereof;
(Two hundred and fifty rupees)

(iii) in any other case not otherwise provided for by this

Act.
(Twenty five rupees)”

1. The sub-clause (ii) of clause (f) of Entry 1 only states that, if a petition is filed for exercise of its jurisdiction under Article 227 of the Constitution of India, the court fees applicable will be Rs.250/-.

2. I have carefully gone through both the aforesaid decisions of this Court. In the decision of the learned Single Judge in the case of *Machindra Chavan*, the petition was filed by individual members of the Union as well as the Union. Hence in the said case the objection that was raised by the Registry was that, the court fee was required to be paid as per the number of employees. In the said case, only one complaint was filed by the individual members as well as the Union before the Industrial Court, which gave rise to a single petition filed before this Court. Thus, this Court had interpreted Clause (f) (ii) of Entry 1 of the Schedule II of the Bombay Court Fees Act, 1959, which is applicable for payment of court fees for the Writ Petition filed under Articles 226 and 227 of the Constitution of India. In the said decision it is held that, separate court fees can be demanded from each of the petitioners only where it appears to the

Court that causes of actions are distinct and separate and each of the petitioners should have in fact filed separate petitions. This Court thus, held that only one set of court fee was payable. It was held in paragraph 8 of the said decision as under:

> "8. In my opinion, there is no ambiguity in so far as the construction and interpretation of Entry 1(f) of Schedule II is concerned. The term 'petition' if given its natural meaning it would be a petition either filed by one individual or by more individuals and as such a fixed court fee stamp of Rs.250/- would be chargeable. Applying any test of interpretation, to me, it would be doing violence to the language used in Entry No. 1 to construe that the term "petition" so as to mean petition by only one individual. Of the Having regard to the judgments referred to hereinabove, I am of clear view that the order passed by the Taxing Officer holding that the petitioners need to pay deficit court fee of Rs.69,250/- is wholly unsustainable in law."

3. In the case of *Ravindra Choudhary* a single petition was filed by several petitioners. This Court after referring to the decision in case of *Machindra Chavan*, as well as decision of Hon'ble Division Bench of this Court in the case of *Federation of Associations of Maharashtra and another Vs The State of Maharashtra and others*[3], the decision of Hon'ble Supreme Court in the case of *Chandra Bhan Vs*

3 Writ Petition No. 6390 of 2002 dated 29th April 2010

State of Orissa[4], the decision of Hon'ble Division Bench in the case of *Govindrao Warjukar Vs The State of Maharashtra*[5] and the decision in the case of *Md. Usman Abdul Jabbar and others Vs Union of India*[6], has held in paragraph 9 as follows:

> "9. In the various petitions filed, for example, regarding acquisition of land, it could be seen that the case of each of the petitioners pertains to different lands owned by each of the petitioners. It can be seen that each of the petitioners would be required to be treated as aggrieved independently. Likewise, when the petitioners file a common petition for payment of rental compensation, each petitioner would be aggrieved person and claiming his individual right, in so far as grant of rental compensation is concerned. Even in service matters, for example, in cases claiming promotion, though number of petitioners file a joint petition, they would be agitating independent grievances of claiming promotion for themselves and would be required to be treated as aggrieved independently. The same would also be the position where number of persons file a joint petition claiming appointments or benefit of certain Government Resolutions. We also have come across various petitions challenging the orders passed by the Scrutiny Committee. The petitioners challenge the independent orders passed against them and, as such, would have to be treated as aggrieved independently. Similar is the case with the students who file joint petition for certain benefits."

4 AIR 1967 SC 767

5 Special Civil Application No. 1259 of 1975

6 CRA No. 343 of 1976 in SCA No. 3337 of 1976 dated 12th August 1976

4. Thus, what was held in the decision in the case of *Ravindra Choudhary* was that, when petitioners challenge independent orders passed against them, the same would have to be treated as aggrieved independently and though they file a common petition, in such cases the court fees would be per petitioner. In the present case, the decision in the case of *Ravindra Choudhary* was relied upon by the Taxing Officer for the purpose of holding that court fee was liable to be separately paid by each employee who was named at Annexure - ‘A’ to the complaint.

5. In my view, the ratio laid down in the decision of *Ravindra Choudhary* is not applicable to the facts of the present case. The Hon’ble Division Bench of this Court in the case of *Ravindra Choudhary* has held that if a joint petition is filed by individual persons challenging independent orders but are similar in nature, court fee will have to be paid separately by each of the of petitioners. It is also held that in a given case, though a petition is filed jointly but there are distinct causes of action, court fee will be applicable per petitioner.

6. So far as the facts of the present case are concerned, the

original complaint in the Labour Court and Revision in the Industrial Court was filed only by the Union. The Writ Petition was arising out of only one single proceeding filed only by the Union. Thus, it cannot be said that there were separate causes of action or that distinct claims were filed by the members of the Union. Thus, there was no reason for demanding separate court fees from the employees who were named at Annexure – ‘A’ to the original complaint. Thus, the applicant has correctly paid one set of court fee.

7. For the reasons stated above, the view taken by the Taxing Officer is not sustainable. Hence, the order passed by the Taxing Officer on 5th October, 2016 in Writ Petition Stamp No. 15210 of 2016 is set aside.

8. The Civil Revision Application is allowed in above terms.

[GAURI GODSE]
JUDGE