

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 2888 OF 2018

Rajendra S/o Vithalrao Deshmukh,
Aged about 65 years, Occ. Voluntarily
Retirement,
R/o Gajanan Nagar, Mude Layout, Plot
No.6, PO Pimpri Meghe, Dist. Wardha

...Petitioner

// VERSUS //

The Wardha District Central
Co-operative Bank Ltd.,
Near Railway Station, Wardha, through
its Chief Executive Officer

... Respondent

Shri C.V.Jagdale, Advocate for the petitioner.
Shri S.K.Bhoyar, Advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 7th AUGUST, 2023.

ORAL JUDGMENT :

Heard. Rule. Rule made returnable forthwith. Heard finally
by consent of the parties.

2. The complaint filed by the petitioner for claiming wages amounting to Rs. 69,845.70 towards 'special sick leave' for the period from 28th May, 2010 to 25th August, 2010, came to be rejected vide impugned judgment and order dated 31st July, 2017 passed by the learned

Industrial Court No.1, Nagpur in complaint (ULP) No.15 of 2011, is under challenge in this writ petition.

3. After going through the record, it is evident that as per the settlement between the respondent-bank and the Union as per clause-6, there is a provision for grant of 'special sick leave', in addition to regular medical leave on a condition that the employee shall submit certificate of Civil Surgeon.

4. The petitioner accordingly sought the special sick leave during the period from 28th May, 2010 to 25th August, 2010 and submitted the certificate issued by the Civil Surgeon, in support of it.

5. Despite the same, the request was rejected and the leave was considered from the balance regular leave available to the credit of the petitioner i.e. for 90 days.

6. The petitioner, therefore, filed a complaint under Sections 28 and 30 read with Items 9 of Schedule VI of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred as the 'MRTU and PULP Act, 1971') before the

learned Industrial Court, which came to be dismissed by the learned Industrial Court by recording the following reasons:

“17. Moreover, on careful perusal of the Board meeting dated 12/06/2010 it seems that, in that meeting it has been resolved to sanction regular medical leave to the complainant for the period during 28/5/2010 to 25/08/2010. Accordingly, the complainant was informed that, leave for that period was granted from the leave at his credit and therefore, no granted special medical leave. Not only this but, the complainant fairly admitted during cross-examination that, the amount of Rs.69,845.70 was credited to his account and this fact is also corroborated by the copy of leave abstract dated 4/4/2014 available on record that about 90 days leave at the credit of the complainant and he was paid the wages for the leave at his credit. In view of this I do not think that, there is any violation of the agreement dated 15/02/2001 amounting to unfair labour practice under Item 9 of Schedule IV of the ULP Act as alleged. In short, the respondent miserably failed to demonstrate before the court that, there is a violation of the agreement and thereby respondent has engaged in an unfair labour practice under Item 9 of Schedule of the ULP Act, hence, I answer this issue in the negative.”

7. It is apparent on the face of the order that the above referred observations are contrary to the clause 6 of the settlement. There is no ambiguity in interpretation of clause 6 of the settlement which permits the employee to seek ‘special sick leave’, in addition to regular leave.

8. In the circumstances, I have no hesitation to hold that the request of the ‘special sick leave’ was wrongly rejected by the respondent-bank and the petitioner is entitled for the relief sought in the complaint

before the learned Industrial Court. Accordingly, I pass the following order.

- i. Writ petition is allowed.
- ii. The judgment and order dated 31st July, 2017 passed by the learned Industrial Court No.1, Nagpur in Complaint (ULP) No. 15 of 2011 is hereby quashed and set aside and the respondent is directed to pay Rs. 69,845.70 towards 'special sick leave' for the period from 28th May, 2010 to 25th August, 2010.

[ANIL S. KILOR, J.]

Digitally signed
by
SACHIDANAND
KUTTAN NAIR
Date:
2023.08.07
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