

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 16132 OF 2023

Executives Association of RGPPL. ... Petitioner.
V/s.
Ratnagiri Gas and Power Pvt.Ltd. (RGPPL)
and others. ... Respondents.

Mr.Ashok D. Shetty with Ms.Rita K. Joshi and Mr.Akash Kamble
for the Petitioner.

Mr.Ashutosh Mishra for Respondent No.3 (UOI).

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KASHINATH
NANOSKAR

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**CORAM : NITIN JAMDAR, AND
M.M. SATHAYE, JJ.**

DATE : 22 March 2024.

P.C. :

Heard the learned counsel for the parties.

2. The Petitioner is an association of the employees of the Respondent- Ratnagiri Gas and Power Private Limited. The Association has filed this petition seeking to quash an action of recovery of Performance Related Pay (PRP). This petition is filed seeking to represent 20 employees who are stated to be the members of the Petitioner- Association. A recovery from the salary of individual employee is a personal action.

3. The Association in the first instance has stated in the petition that it is representing 20 employees. This cannot be the position, but be that as it may, we have considered this petition from a different perspective, that is, the opportunity not being given to the employees or the Petitioner- Association before proceeding to recover the amount from the individual employee.

4. We note that the Petitioner- Association has, in fact, given a representation to the Respondent- employer and it was expected that if a substantive recovery is to be made, at least representative of the Petitioner- Association should have been given an opportunity to explain or to point out that deduction is not warranted. By not giving the opportunity, there is a breach of principles of natural justice. Therefore, when the petition came up on board, we have put to the learned counsel for the Respondent-employer whether the Respondent would give an opportunity to the Petitioner- Association on behalf of the employees to put forth their say regarding the recovery to be made. The learned counsel for the Respondent, on instructions, states that the Respondent is agreeable to do so.

5. Accordingly, we dispose of the petition on the statement made on behalf of the Respondent that an opportunity will be given to the Petitioner- Association in furtherance of its representation to put forth their version against the proposed recovery. The Respondent will furnish the Petitioner the reasons why the recovery

is sought to be made, within a period of two weeks, give audience to the representative of the Petitioner and pass a speaking order, if the recovery is contemplated. If the version of the Petitioner-Association is to be accepted, then it is for the Respondent-Authority whether to pass a speaking order or not. Let the entire exercise be completed within a period of six weeks.

6. In light of this order and so that a proper procedure is followed, the recovery is deferred for a period of eight weeks that would mean that the Petitioner would get two weeks if any adverse decision is taken. We make it clear that though we have said that the recovery is deferred for a period of eight weeks, it is not a reflection on the merits of the rival contentions and if it is found that the recovery is justified, it would include the period of eight weeks as above.

7. Writ petition is accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)