



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

WRIT PETITION NO. 10844 OF 2022

The Jalna District Central Co-operative Bank Ltd.,
Head Office, Santoshimata Road,
Jalna, Tq. & District Jalna
Through its General manager.

.....PETITIONER
(Orig. Respondent)

VERSUS

Abhay s/o Bhagwanrao Wyahalkar,
Age: 59 years, Occ: Retired,
R/o: Samarth Nagar, Jalna
Tq. & Dist. Jalna.

.....RESPONDENT
(Orig. Complainant)

Mr. Y. K. Bobade, Advocate for the Petitioner
Mr. Abhinay Khot, Mr. Adesh Watane, Mr. Anand Deshpande,
Advocates for Respondent

CORAM : ROHIT W. JOSHI, J.

DATED : 10TH JULY, 2025

ORAL JUDGMENT :-

. The petitioner/employer has challenged judgment and order dated 18.08.2022, passed by the learned Member, Industrial Court Jalna in Complaint ULP No.250 of 2016. The said complaint is filed by the sole-respondent for declaration that the petitioner/employer has committed unfair labour practice under Item nos.5, 6, 9 and 10 of Schedule IV of the

Maharashtra Recognition of Trade Unions and Prevention of Unfair Labor Practices Act, 1971 (hereinafter referred to as the M.R.T.U. and P.U.L.P. Act).

2. The contention of the complainant/employee is that he was appointed as Clerk with the petitioner/bank on 01.04.1985 and he was working on the said post till 15.05.2015. His grievance is that his terminal dues were not released by the petitioner/employer after his resignation. The terminal dues which were not paid according to the respondent/employee are gratuity, leave encashment benefit, group insurance, amount deducted towards Karmachari Kalyan Yojana and benefit of increments in the dearness allowance.

3. The learned Member has allowed the complaint vide judgment and order dated 18.08.2022, directing the petitioner/employer to clear the dues alongwith interest @ 10 percent per annum from 17.06.2015, i.e. the date on which request for retirement was accepted till realization of the amount.

4. The learned Advocate for the petitioner/employer has raised two contentions with respect to directions for payment

of revised dearness allowance as per revised rates and directions for payment of gratuity. The contention of the learned Advocate for the petitioner is that Recognized Union of Employees of the petitioner/bank had filed two complaints being ULP Complaint No.64 of 2011 and 65 of 2011, *inter alia* seeking annual increments and revised rates of dearness allowance respectively. The learned Advocate contends that both these ULP complaints came to be allowed. The learned Advocate for the petitioner contends that once the complaint filed by the Union was allowed, it was not open for the respondent/employee to individually file another complaint for recovery of dearness allowance at revised rates. He contends that at best, the respondent/employee could have taken resort to contempt proceedings as contemplated under Sections 44 and 48 of M.R.T.U. and P.U.L.P. Act. As regards, the direction for payment of gratuity, the contention of the learned Advocate is that gratuity is payable in terms of Payment of Gratuity Act, which also provides a mechanism for recovery of the amount of gratuity. The contention of the learned Advocate for the petitioner is that the petitioner was required to approach the Controlling Authority under the said

Act and that the Industrial Court under the M.R.T.U. and P.U.L.P. Act did not have jurisdiction to entertain complaint for non payment of gratuity. The learned Advocate has placed reliance on judgment of this Court in the matter of ***Manik Keshav Jagdale Vs. Parner Taluka Sahakari Sakhar Karkhana*** to contend that Labour Court cannot entertain a complaint regarding grievance with respect to non payment of gratuity. Learned Advocate places reliance on the judgment in the matter of ***Indian Coffee Workers Co-Op. Society Ltd., Nagpur Vs. Albert s/o Tavid*** to advance his submission that an order passed by a Court under the provisions of M.R.T.U. and P.U.L.P. Act is not an award within the meaning of Industrial Disputes Act, 1947, and therefore, non compliance of an order passed under the M.R.T.U. and P.U.L.P. Act will not attract unfair labour practice as contemplated under the Item 9 of Schedule 4 of the Act.

5. Per Contra, the learned Advocate for the respondent/employee places reliance on a judgment of this Court in the matter of ***Carona Limited Vs. Sitaram Atmaram Ghag***, reported in ***2000 (3) All MR 37***, to contend that grievance with respect to non payment of terminal dues will

be covered under Item 9 of Schedule 4 appended to the M.R.T.U. and P.U.L.P. Act. He contends that the grievance of Payment of Gratuity Act are attracted only *qua* proceedings for execution for recovery of gratuity dues and not to abate the unfair labour practice by employer. Likewise, placing reliance on the same judgment, the learned Advocate contends that although, a union may espouse common cause of all workmen, that by itself cannot be a ground to hold that an individual workman is precluded from filing a complaint to ventilate his individual grievance.

6. These are only contentions advanced before this Court.

7. The objection pertaining to the jurisdiction of Industrial Court in the light of provisions of Payment of Gratuity Act, 1972 is completely answered against the petitioner in favour of the respondent/employee in paragraph 11 in the judgment of ***Carona Limited***, which is relied upon by the respondent.

8. As regards, the objection pertaining to the individual complaint being lodged with respect to an issue, which is already decided in a complaint filed by the Union, the said contention is also liable to be rejected. It must be noted that the Union filed two cases with respect to annual increments

and dearness allowances for the purpose of entitlement of the members/employees. However, the complaint filed by the respondent pertains to recovery of the amount, which was not paid pursuant to his resignation. Determination of entitlement of a claim and recovery of amount in terms of the entitlement are two separate aspects. Since, the terminal dues were not cleared by the employer, the said act clearly amounted to an unfair labour practice, for which, the respondent/employee was entitled to file a complaint. In view of the above, the second contention raised by the petitioner is also liable to be rejected.

9. For the reasons mentioned above, the Writ Petition is devoid of any substance and is accordingly **dismissed** with no orders as to cost.

10. Amount deposited by the petitioner with this Court alongwith accrued interest be remitted to the respondent/employee.

11. Civil Application, if any, stands **disposed** of.

(ROHIT W. JOSHI, J.)