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908-WP-4991-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO. 4991 OF 2025

The Jalna District Central Cooperative Bank Ltd Jalna

VERSUS

Shivaji Sakharam Salve

WITH

WRIT PETITION NO. 4360 OF 2025

WITH

WRIT PETITION NO. 4995 OF 2025

WITH

WRIT PETITION NO. 4996 OF 2025

WITH

WRIT PETITION NO. 4999 OF 2025

WITH

WRIT PETITION NO. 4993 OF 2025

WITH

WRIT PETITION NO. 4997 OF 2025

WITH

WRIT PETITION NO. 4994 OF 2025

WITH

WRIT PETITION NO. 5009 OF 2025

WITH

WRIT PETITION NO. 5000 OF 2025

WITH

WRIT PETITION NO. 5001 OF 2025

WITH

WRIT PETITION NO. 5007 OF 2025

WITH

WRIT PETITION NO. 5010 OF 2025

WITH

WRIT PETITION NO. 5003 OF 2025

WITH

WRIT PETITION NO. 5005 OF 2025
WITH
WRIT PETITION NO. 4998 OF 2025
WITH
WRIT PETITION NO. 5006 OF 2025
WITH
WRIT PETITION NO. 5008 OF 2025
WITH
WRIT PETITION NO. 5004 OF 2025
WITH
WRIT PETITION NO. 4992 OF 2025

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Mr. Sambhaji Subhashrao Tope, Advocate for the Petitioner.
Mr. Anand Deshpande a/w Mr. Parth Salunke a/w Mr. Sudhir Chavan
and Mr. Adesh Watane, Advocates for Respondents.

CORAM : KISHORE C. SANT, J.

DATE : 9th MAY 2025

PC :-

1. Heard the learned Advocate for the respective parties.
2. With the consent of the parties, the petitions are taken up for final disposal at the stage of admission. Since the common question is involved in all these writ petitions and the impugned orders are also identical, all the petitions are taken up together
3. The petitioner-bank has approached this Court challenging the

order dated 31st January 2025 passed by the learned Industrial Court, Jalna on an applications Exh.C-33 in complaint ULP No.205/2019, Exh.C-35 in complaint ULP No.189/2019, Exh.C-23 in complaint ULP No.49/2021, Exh.C-32 in complaint ULP No.196/2019, Exh.C-32 in complaint ULP No.202/2019, Exh.C-30 in complaint ULP No.237/2019, Exh.C-34 in complaint ULP No.192/2019, Exh.C-34 in complaint ULP No.200/2019, Exh.C-28 in complaint ULP No.183/2019, Exh.C-39 in complaint ULP No.188/2019, Exh.C-43 in complaint ULP No.206/2019, Exh.C-32 in complaint ULP No.184/2019, Exh.C-23 in complaint ULP No.235/2019, Exh.C-28 in complaint ULP No.197/2019, Exh.C-26 in complaint ULP No.19/2020, Exh.C-26 in complaint ULP No.236/2019, Exh.C-26 in complaint ULP No.229/2019, Exh.C-25 in complaint ULP No.218/2019, Exh.C-35 in complaint ULP No.203/2019, Exh.C-28 in complaint ULP No.204/2019.

4. By way of impugned order, the learned Member, Industrial Court has rejected the applications of the petitioner seeking addition of Union as necessary party in the proceeding.

5. The respondent/complainant in all these petitions are the retired employee of petitioner-bank, who retired on different dates. These employees approached the Industrial Court praying for payment of difference of amount of dearness allowances since March 2010 till the date of retirement/superannuation alongwith interest @ 18%. The ULP complaints came to be filed in the year 2019.

6. In the proceeding in the ULP complaints, now the evidence is recorded. The complaints were placed for final hearing. The claimants advanced the argument. At that stage, the petitioner-bank filed an application for addition of one Union namely, Co-operative Bank Employee Union as necessary party. It is stated in the application that the said union is the only union recognized under Bombay Industrial Regulation Act, 1946. Since that is only a union recognized by the bank, the agreement with settlement was entered into with the said Union. It is further case that, on 7th May 2019, the settlement/agreement came to be entered between the bank and the union in which it is agreed that the members of the union have relinquished their rights to receive dearness

allowances from March 2010 till 31st March 2019. It is in that view, the union is necessary party. Prayer was made to add the said union as necessary party.

7. The respondent filed the reply on the said application. It is the stand of the respondents that they were never member of any union during the service tenure. Therefore, no settlement or agreement is binding upon them. The so-called settlement arrived at between the union and the petitioner-bank is dated 7th May 2019 i.e. after retirement of the complainant. There is no question of the said settlement being binding upon the employees. The application is filed only to prolong the proceeding. When the complaints were posted for final arguments, the application was thus opposed.

8. The trial Court on considering that the application is filed at belated stage when it is reserved for argument of the parties. Since 2019, no such application was preferred. Though it was within the knowledge of the petitioner-bank, there is not explanation as to why the said settlement was not produced on record. The dearness allowances is

claimed since 2010 till the date of retirement which is before the date of settlement in many cases for this Court and rejected the application.

9. The learned Advocate Mr. Tope appearing for petitioner in all these petitions, vehemently argued that the Union sought to be added as a party is the only recognized union by the bank under the Bombay Industrial Relations Act, 1946. The settlement between bank and the union is, therefore, binding on all the employees of the bank. No employee can take a defence that merely because he is not a member of the union, the settlement is not binding upon him. There was no intention of the bank to deliberately prolong the proceeding. On the contrary, though the employees are claiming the amount from 2010, they have approached to the Court in 2019 for the first time. The learned Advocate for the petitioner has relied upon the judgment of this Court in the case of *Ambika Silk Mills Company Ltd. And Anr. Vs. Maharashtra General Kamgar Union and Ors.*¹ (para 13). He thus prays for allowing the writ petitions.

1 1998 (2) Bom. C.R. 148

10. Mr. Deshpande, learned Advocate for the Respondents vehemently argued that it was never a case of the petitioner-bank that there is settlement between the parties. In the written statement, there is no whisper about this. It is only when the learned Judge is due to transfer in the month of June, this application is moved. The matter is for argument. It shows that in December 2024, argument of complainant's side is over. The respondent sought many adjournments for argument and thereafter filed this application. This application is malafide and is rightly dismissed. He relied upon the judgment of this Court in the case of *Ramesh Hirachand Kundanmal Vs. Municipal Corporation of Greater Bombay*². He thus prays for dismissing the writ petitions.

11. Heard the parties. From the facts stated above, it is clear that the application is made at the fag-end of the trial. The petitioner-bank has appeared in the proceeding in 2019 itself. No defence is taken about the settlement. Many of the employees have already retired except in the case of Kadaji Tolaji Yetale [WP/5005/2025], who retired on 31st May 2019 i.e. after the settlement. Thus, on this fact, it is clear that no

² 1992 (2) SCC 524

sympathy needs to be shown to the petitioner-bank.

12. In the case of *Ambika Silk Mills Company* (supra), this Court considered the provisions of Section 27-A and Section 30 of the Bombay Industrial Relations Act. This Court finds that since on the date of settlement, the complainant had already retired. There is no question of settlement even, if any, to be binding upon them prima facie. It is for the Court to consider the same.

13. So far as the judgment in the case of *Ramesh Kundanmal* (supra), the respondents have rightly relied upon the judgment. It is held that the complainant is *dominus litis* and, therefore, he cannot force to join any party to the proceeding. Party needs to be shown to be necessary or a proper party to the suit. Addition of the respondent would enlarge the scope in the suit. This court finds that, in the present case also it is not shown as to how the union is necessary party. The bank has also failed to prove bonafide in making the application and on the delay and laches in making the application. For all these reasons, this court finds that petition deserves to be rejected and the same is hereby rejected. While

issuing notice, this Court had directed the petitioner bank to deposit Rs.5,000/- in each petition, to show bonafide. Now the amount is deposited in the office of this Court. The respondents are at liberty to withdraw the said amount without requiring any formal application.

14. With this, writ petitions stand dismissed.

15. The trial Court to decide the complaints as expeditiously as possible.

16. The petitioner shall not seek any adjournments and to argue the case on the next date.

17. Parties to appear before the trial Court on 15th May 2025.

18. The respondents/complainants are entitled to withdraw the amount deposited in this Court without requiring any formal application.

19. Parties to act an authenticated copy of this order.

[KISHORE C. SANT, J.]