

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1318 OF 2025

The General Manager,
Canara Bank
V/S

....Petitioner

The President
Canara Bank Staff Union & Anr.

....Respondents

Mr. Meelan S. Topkar with Ms. Pavitra Manesh, Ms. Bhargavi Patil *for the Petitioners.*

Mr. Bhavesh Parmar with Mr. Rajesh Sahani and Mr. Vivekanand Akshali, Ms. Reshma Nair i/b Mr. Devmani Shukla *for Respondent No.1.*

Dr. Uday P. Warunjikar i/b Ms. Priyanka Chavan *for Respondent No.2.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 1 APRIL 2025.**

P.C.:

1. The Petition challenges order dated 18 September 2024 passed by the Authority under Minimum Wages Act, 1948 and the Regional Labour Commissioner (Central), Pune, by which the Claim Application filed by Respondent No.1-Union has been allowed directing the Petitioner-Bank to pay the ascertained claim amount alongwith 10% compensation towards difference of wages actually paid and wages payable under the Minimum Wages Act, 1948 (**the Act**) to the listed workers in the Claim Application.

2. I have heard Mr. Topkar, the learned counsel appearing for Petitioner-Bank, Mr. Parmar, the learned counsel appearing for Respondent No.1-Union and Dr. Warunjikar, the learned counsel appearing for Respondent No.2-RLC(C).

3. It appears that the Respondent-Union filed Claim Application on behalf of 51 workers demanding difference in the minimum wages and the wages actually paid in respect of period from 1 April 2019 to 31 August 2022. It is the case of the Petitioner-Bank that minimum wages prescribed as per the Act are not payable to members of the first Respondent-Union as the concerned workers were utilized for sweeping and dusting duties for only few hours in a day. However, perusal of the evidence would indicate that the workers led evidence of engagement by the Petitioner-Bank on full time basis. To illustrate, in the examination-in-chief, witness Shri Tushar Jyotiram Sonawale deposed that he used to work from 9:00 to 14:00 hours and again from 14:30 hours to 19:30 hours on regular basis and sometimes upto 22:00 hours. Perusal of the cross-examination of the said witness would indicate that the Petitioner-Bank did not even bother to make a suggestion to him that he was a part timer performing duties for only few hours every day. The Respondent-Union thus discharged the burden of proving full time appointment of the concerned workers. The Petitioner-Bank did not lead evidence to prove that engagement of the workers was on part time basis. In that view of the matter, Petitioner-Bank

cannot seek to escape the liability of payment of minimum wages on a specious plea of engagement of workers on part time basis.

4. Mr. Topkar has further contended that though the claim application was filed on behalf of 51 workers and the same is ultimately allowed on behalf of 36 workers, evidence of only 6 workers was led. However upon being queried as to whether the Petitioner-Bank disputes engagement of the balance workers for performing sweeping/dusting duties, the answer is in the negative. Thus when engagement of all the 36 workers for performance of sweeping/dusting duties is not really disputed, I do not see any reason why it was necessary for all the 36 workers to step into the witness box and lead evidence. The evidence was necessary only for the purpose of proving that the engagement was on full time basis. Examination of six witnesses on behalf of the Respondent-Union was sufficient to prove engagement on full time basis. Therefore mere non-examination of balance workers could not have been a reason for rejecting the claim by the Authority under the Act.

5. Mr. Topkar would then contend that the Claim Application was clearly barred by limitation. He would rely upon provisions of Section 20 of the Act in support of his contention that the period of limitation for filing the Claim Application was only six months. He would submit that the claim was in respect of wages from 1 April 2019 and the same having been filed on 31 October

2022, was clearly barred by provisions of Section 20 of the Act. However Mr. Parmar would submit that the Authority is invested with jurisdiction to condone the delay upon showing of sufficient cause. In my view, the action of the Petitioner-Bank in not paying wages as prescribed under the provisions of the Act gives rise to a continuous cause of action. The cause gets renewed every month when lesser wages are paid than the one required to be paid under the provisions of the Act. Since the cause of action was continuous, there was no question of any delay in filing the Claim Application. Therefore it was not even necessary for the first Respondent-Union to file any application seeking condonation of delay.

6. However though the Claim Application was within limitation, at the same time, the first Respondent-Union could not have allowed the claim in respect of period exceeding six months before filing of the Claim Application on 31 October 2022. In ***Union of India &Anr. vs. Tarsem Singh*** 2008 (8) SCC 648, the Apex Court has held that though issue relating to payment of salary gives rise to a continuous cause of action, in respect of grant of consequential relief of recovery of arrears of the past period, the principles relating to recurring/successive wrongs would apply. It is further held that the consequential relief of payment of arrears will have to be necessarily restricted to the period of limitation prescribed under the statute. This principle is reiterated by the Apex Court in ***State of Madhya***

Pradesh & Ors. vs. Yogendra Shrivastav 2010 (12) SCC 538.

In my view therefore, the only modification that is warranted in the impugned order passed by the Authority is to restrict the claim of difference in the amount of wages to six months prior to filing of Claim Application dated 31 October 2022. In other words the concerned 36 members of the first Respondent-Union would be entitled to difference of wages from the month of May 2022 onwards.

7. I accordingly proceed to pass the following order:

i) Order dated 18 September 2024 passed by the Authority Under the Minimum Wages Act, 1948 shall stand modified to the limited extent that the 36 workers who are members of the first Respondent-Union and in whose favour the order is passed shall be entitled to difference in the minimum rates of wages and the wages actually paid to them from 1 May 2022 onwards.

ii) Petitioner-Bank shall accordingly calculate the difference of wages payable to the said 36 workers from 1 May 2022 onwards and pay the same to them within a period of four weeks.

iii) Compensation at the rate of 10% awarded by the Authority shall accordingly apply to the modified sum to be ascertained by the Petitioner-Bank as directed above.

8. With the above directions, the Petition is partly allowed and **disposed of**.

(SANDEEP V. MARNE, J.)

SUDARSHAN
RAJALINGAM
KATKAM

Digitally signed
by SUDARSHAN
RAJALINGAM
KATKAM
Date:
2025.04.01
18:55:47 +0530