



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

WRIT PETITION NO.120/2025

General Manager, Bhandara District Central Cooperative Bank Ltd. Bhandara .Vs.
Rajesh Raibhan Madame

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. O. A. Ghare, Advocate for petitioner.
Mr. H. A. Khedikar, Advocate for respondent.

CORAM : **ANIL L. PANSARE, J.**

DATE : **MARCH 10, 2025**

Heard for some time.

2. Industrial Court, Bhandara, vide judgment and order dated 10.04.2012, passed in Complaint (ULP) No.6/2008, directed petitioner – original respondent to consider case of the respondent – original complainant for promotion for the post of Clerk with effect from 01.05.2007, with all consequential benefits, if he is suitable in terms of agreement dated 26.08.2002.

3. Subsequent to passing this order, respondent has filed application under Section 33C(2) of the Industrial Disputes Act, 1947, praying that he has been promoted to the post of Clerk with effect 01.05.2007 in terms of the aforesaid direction.

4. My attention is invited to order dated 05.07.2012 passed by this Court in Writ Petition No. 3841/2012, wherein the Court, while dealing with challenge to order dated 10.04.2012 passed by Industrial Court, observed that the petitioner – bank was under impression that the Industrial Court has directed the petitioner – bank to promote the respondent to the post of clerk when, in fact, the Industrial Court has only directed the petitioner – bank to consider the case of the respondent for promotion. This Court further noted that the Industrial Court had made it clear that the petitioner's

promotion will have to be considered in view of the agreement dated 26.08.2002.

5. Thus, this Court had clarified that the Industrial Court has directed the petitioner – bank to consider the case of the respondent for promotion and not to promote him.

6. This time the respondent appears to have presumed that he has been promoted to the post of clerk and accordingly filed application under Section 33C(2) of the Industrial Disputes Act, 1947 requesting Industrial Court to determine the amount due and payable to him on the ground that there exists pre-existing right to receive the same with effect from 01.05.2007, in terms of order passed by the Industrial Court.

7. This application under Section 33 C(2), thus appears to be misconceived inasmuch as the respondent presumed that he stands promoted in terms of the order passed by the Industrial Court.

8. Nonetheless, the fact remains that this Court had vide order dated 05.09.2012, in a way, directed the petitioner to consider the case of the respondent for promotion in terms of order passed by the Industrial Court. Thus, the direction is only to consider the case of the respondent for promotion in terms of agreement between the parties.

9. At this stage, learned counsel for the petitioner, on instructions, submits that the petitioner is willing to consider the case of the respondent in terms of the aforesaid directions. He submits that, as such the respondent has retired on superannuation on 31.03.2023, nonetheless, his case can be considered for promotion in terms of the order passed by the Industrial Court, provided he is otherwise suitable.

10. In view of above, since the petitioner is willing to consider the case of the respondent and since the order passed by the Industrial Court does not give right to the respondent to claim automatic promotion in terms of the directions, the application filed under Section 33 C(2) of the Industrial Disputes Act, 1947 was not maintainable. Hence, following order is passed.

ORDER

- (i) The writ petition is partly allowed.
- (ii) Impugned judgment and order dated 11.01.2023 passed by Labour Court, Bhandara in Application (IDA) No. 2/2020 is quashed and set aside.
- (iii) Statement made by the petitioner that it will consider the case of respondent for promotion in terms of judgment and order dated 10.04.2012, passed by Industrial Court, Bhandara in Complaint (ULP) No.6/2008, is accepted as an undertaking given to this Court.
- (iv) The petitioner shall consider and decide the same within eight weeks from today.

No order as to costs.

(Anil L. Pansare, J.)