

Review (ULP) No.01 of 2018
ORDER BELOW EXH.CA-2

By this application, the Satara Zilha Sahakari Krishi Gramin Bahuddeshiya Vikas Bank Karmachari Sanghatana (hereinafter referred as “the Union”) as a third party prays to allow them to join as a party to the present proceeding.

2. As per the submissions of the Union, they have filed Complaint (ULP) No.8/2005 against the opponent bank. It was finally decided by the judgment and order dt.25-3-2009 whereby the respondent bank directed to pay all its employees the benefits of the settlement dt.27-10-1996 since the date of its non-implementation. The applicants herein are the beneficiaries of the said order. They were the members of the Union. As the respondent bank failed to pay the amount of benefits as per the above said order, about 94 employees filed the separate individual recovery application before this Court. Accordingly, they have received the recovery certificate from the Court. However, other 105 employees who are also the beneficiaries, are entitled for the recovery certificates from this Court. They yet to get the entire amount of balance leave, gratuity, P. F. benefits. About 19 employees did not get their wages for about last 20 months. Therefore, they filed Complaint (ULP) No.32/2017 which is pending before this Court.

3. It is further submitted by the Union that all the

employees of the Union will get the dues only after the sale of the property of the opponent bank. The liquidator is already appointed by the Government to clear the entire dues of the employees. By filing the present review application, the 94 employees including review applicants are claiming the difference amount with interest. The review application and the prayers made therein seriously affect the rights of other 105 employees. Therefore they may be impleaded as a third party to the said proceeding.

4. The application is strongly opposed by the applicants by filing their say at Exh. U-13, inter alias contending that after the decision of Complaint (ULP) No.8/2005, the Union has not taken any steps to recover the dues from the opponent bank. Therefore, the applicants filed the recovery applications and the same have been decided in their favour. They have filed the present review petition for granting of the interest on due amount. Therefore, the Union has no reason to appear in the above matter. Also, they have no right to file the present application. The subject matter of the review relates with the applicants. They have no nexus with the Union. Hence, it is submitted to reject the application.

5. The Liquidator on behalf of the opponent bank has submitted to pass just and equitable order.

6. Heard the learned Advocate V. G. Rakshe for the third party Union, the learned Advocate M. R. Pawar for the applicants and the learned Advocate R. P. Jadhav for the opponent bank.

They have argued the matter in the light of their respective submissions.

7. So far the factual matrix are concerned, they are not in dispute. The applicants, along with some other employees, filed the recovery applications on the basis of the judgment and order in Complaint (ULP) No.5/2005 decided on 25-3-2009. The amount of the benefits on the basis of the settlement dt.27-10-1996, is determined and the recovery certificate issued in favour of the individual applicants. However, the rest of the members of the Union failed to file any recovery application but subsequent in time they have filed Complaint (ULP) No.32/2017 which is pending for hearing and final disposal.

8. The subject matter of the present review application is that of the claim of interest @ 18% on the legal dues of the applicants which has not been considered earlier in the judgment and order in recovery applications filed by the applicants. Therefore certainly the third party Union has absolutely no concern with the subject matter of the present review application.

9. As per the settled law, the necessary party is one party whose presence is essential and in whose absence, there cannot be proper and conclusive adjudication of a matter in dispute and no effective and adjudicative order will be passed. Here in the present matter, it is not the similar situation.

10. The third party Union appeared in the matter only because the applicants claimed to stay the sale of the property of the opponent bank. It is an interim relief application and has nothing to do with the claim of the 105 members of the Union which is no more in existence. Also, their legitimate dues are not determined.

11. Therefore, considering the legal position and on factual matrix, the third party Union has no locus to appear and interfere in the present proceeding. Application is devoid of merits liable for rejection. Hence, the following order.

ORDER

The application stands rejected.

Sd/-

(D. A. Dholakia)
Member,
Industrial Court, Satara.

Date: 01/02/2019
SATARA.