

Received on : 31.10.2018
Registered. on : 01.11.2018
Decided on : 06.01.2021
Duration : 2 Yrs. 2 M. 5 D.

BEFORE MEMBER, INDUSTRIAL COURT AT SATARA.

Review Application (ULP) No.01 of 2018
CNR No. MHIC 110001062018

- 1) Uttam Shankar Jadhav
Age - 71 years, Occu - Nil
R/o. Daulatnagar, Satara.
- 2) Sadashiv Baburao Mohite
Age - major, Occ. - Nil
R/o,. A/P. Kukudwad,
Tal. Man, Dist. Satara.
- 3) Hanmant Vishnu Taralekar **(Since deceased)**
Age - major, Occ. - Nil
A/P. Mhaswad,
Tal. Man, Dist. Satara.

His legal heirs

- (a) Smt. Surekha Hanmant Taralekar **(Wife)**
Age - 63 years, Occ. - Nil
A/P. Mhaswad,
Tal. Man, Dist. Satara.
- (b) Sunil Hanmant Taralekar **(Son)**
Age - 45 years,
A/P. Mhaswad,
Tal. Man, Dist. Satara.

(c) Anil Hanmant Taralekar **(Son)**

Age - 43 years,
A/P. Mhaswad,
Tal. Man, Dist. Satara.

(d) Vishwal Hanmant Taralekar **(Son)**

Age - 41 years,
A/P. Mhaswad,
Tal. Man, Dist. Satara.

4) Pushpraj Vaman Babar

Age - major, Occ. - Nil
R/o. Kikali,
Tal. Wai, Dist. Satara.

5) Dharmaji Dagadu Phalke

Age - major, Occ. - Nil
R/o. Pimpalwadi, P. Dhawadashi,
Tal. Man, Dist. Satara.

6) Vikas Dattatray Inamdar

Age - major, Occ. - Nil
Shukrawar Peth, Satara.

7) Shivram Tukaram Desai

Age - major, Occ. - Nil
A/P. Paparde,
Tal. Patan, Dist. Satara.

8) Suryakant Rajaram Salunkhe

Age - major, Occ. - Nil
A/P. Degaon, Dist. Satara.

9) Vijaykumar Shankar Jagtap

Age - major, Occ. - Nil
A/P. Udtare,
Tal. Wai, Dist. Satara.

10) Vilas Mukinda Mane
Age - major, Occ. - Nil
A/P. Dare Kh.,
Tal. Wai, Dist. Satara.

11) Uttam Joti Ghorapade
Age - major, Occ.- Nil
Bhuvikas Bank Colony,
Daulatnagar, Satara.

.. Applicants

V/s

1) Satara District Agri. Rural
& Multipurpose Development
Co-operative Bank Ltd., Satara,
Through its The Liquidator,
Narveer Tanaji Marg, Daulat Nagar,
Satara.

2) Administrator & Zilha
Up - Nibhandhak (D.D.R.) Dist. Satara &
Satara District Agri. Rural
& Multipurpose Development
Co-operative Bank Ltd., Satara,
Narveer Tanaji Marg, Daulat Nagar,
Satara.

.. Opponents

CORAM : C.S.Datir, Member, industrial Court Satara.

ADVOCATES : Shri. M.R.Pawar, Advocate for the Applicants.

Shri R. P.Jadhav, Advocate for the Opponents.

J U D G M E N T
(Delivered on 06.01.2021)

1) The Applicants have filed this review application under Rule 44(6) of the Industrial Court Regulations, 1975 and provisions of MRTU & PULP Act, 1971 on following grounds.

2) This is a review application against the impugned order passed in Recovery Application (ULP) No.01/2011 dt. 04-04-2012. According to them, applicants were the employees of the opponent bank. They were retired from the service. There are employee-employee relationship between them. The opponent No.1 is the Liquidator of the Bank. The applicants had filed Recovery Application (ULP) No.01/2011 for the legal dues with interest. But inadvertently, court did not pass any order on interest. According to them, it is a mistake and error which may be rectified u/s 44(6) of the Industrial Court Regulations., 1975. It is just clerical and arithmetical mistake. If interest is not allowed, the applicant will suffer irreparable loss.

Hence, review application may be allowed and interest @ 18% may be granted. To support his contention, he placed following citations.

1) Gulam Abbas Vs. Mulla Abdul Kadar, 1969 (II) CPSC 471 (S.C.) (M.P.H.C.).

2) Devidas Shridhar Rege Vs. Arjun Dhondu Poralkar, 1993 (8) CPMH 90 (Bom.H.C.).

3) *The Ahmednagar Municipal Council Vs. Pandit Rambhau Ausarkar, 2015 (7) CPMH 156, (Bom.H.C.).*

4) Kapra Mazdoor Ekta Union Vs. Management of M/s Birla Cotton Spinning and Weaving Mills Ltd. & Anr., (S.C) in Appeal (Civil) 3475 of 2003 decided on 16.03.2005.

5) Maya Devi (Dead) through L.Rs. And others Vs. State of Haryana and Anr., 2018 (4) All MR 489 (SC).

3) As against, the opponents filed say vide Exh.C-6 and resisted the application in toto. According to them, this application is not tenable, because, there is no provision under Labour Laws to file review application against the final order. The provision of 44(6) of Industrial Court Regulations, 1975 would not apply. Moreover, this application is also out of limitation, because, it is filed after 6 years. Moreover, after retirement, there would not be employer-employee relationship. The Industrial Court has not granted interest in original complaint bearing No.08/2005. Therefore, there is no question to grant interest in recovery

proceeding or by way of this review application. There is no clerical or arithmetical mistake as alleged. Hence, interference is not warranted.

4) They lastly prayed, review application may be disallowed. To support their contention, they placed following citations.

1) Kalavati Bharsingh Thapa Vs. Maharashtra Plastic Industries, in W. P. No. 2492 of 2001, decided on 11-08-2004/12-08-2004 (Bom.H.C.).

2) The Ahmednagar Municipal Council Vs. Rambhau Ausarkar & Ors, decided on 09-07-2015 (Bom.H.C.) (Aurangabad Bench).

5) Heard argument of both side. Perused record.

6) Considering the rival pleadings, following points arise for my determination. I record my findings with reasons as follows.

POINTS

FINDING

1) Is exigency arises to review impugned order ?

.. **In the Negative**

2) What order ?

.. **As per final order.**

REASONS

As to Point No.1 :-

7) The learned Advocate of opponents has vehemently argued that, the present review is not tenable. There is no provision to review the final order. In absence of specific provision, petition needs to be dismissed. To support his contention, he placed reliance in the case of **Kalavati Bharsingh Thapa Vs. Maharashtra Plastic Industries** (cited supra).

8) As against, the learned Advocate of review applicants has vehemently argued that, court can review its order or judgment u/s 44(6) of the Industrial Court Regulations, 1975. This court has power to review its final judgment also. Hence, petition is tenable.

I am of view that, Section 44(6) of Industrial Court Regulations would attract only, if there is clerical or arithmetical mistake arising from accidental slips or omissions while passing judgment or order.

In the present case, the original Complaint (ULP) No.08/2005 decided on merit on 25-03-2009. Against the judgment of original Complaint (ULP) No.08/2005, the Recovery Application No.1/2011 has been filed, which was subsequently decided.

9) It is pertinent to note that, the present applicants did not make whisper regarding the interest in the original Complaint (ULP) No.08/2005. Once there is no pleading or evidence to that effect, the question would not arise to pass judgment thereon. I mean to say that, Complaint (ULP) No.08/2005 had been decided on merit. Therefore, the question of clerical or arithmetical mistake arising from accidental slips or omissions does not arise.

Not only this, in the case of **Kalavati Thapa** (cited supra), the Hon'ble Bombay High Court has observed that,

“Power of review has been restricted to the cases of interim orders only and not on final orders. There is no power to review the final judgment. Once the court disposes of the proceedings with its final order, no question arises to review it. Rather, after final order, court becomes functus officio in relation to the said proceeding. No specific power has been vested to review the order.”

I am of view that, considering the ratio laid down in the above citation, review would not be tenable u/s 44(6) of the Industrial Court Regulations, 1975.

In short, complainant did not make whisper about the interest in original Complaint (ULP) No.08/2005. The said complaint was decided on merit. Against the impugned judgment in Complaint (ULP) No.08/2005, the recovery application bearing No.01/2011 has been decided finally on 04-04-2012. Once the final order has been passed, no review petition will be entertained u/s 44(6) of the Industrial Court Regulations. Petition is devoid of merit and deserves to be rejected. Hence, I answer Point No.1 in the negative and proceed to pass following order.

: **ORDER** :

Review application stands dismissed.

Sd/-

Satara
DATE : 06/01/2021

(C. S. Datir)
Member,
Industrial Court, Satara

Argued on : 18.12.2020
Judgment dictated on : 06.01.2021
Judgment transcribed on : 06.01.2021
Judgment checked & signed on : 06.01.2021

INDUSTRIAL COURT