

IN THE LABOUR COURT AT AURANGBAD
(BEFORE SHRI.S.S. SAHASRABUDHE, JUDGE, LABOUR COURT-II, AURANGABAD)

Ref./IDA/No.68/2014

ORDER BELOW EXH.U-15

Read the application and say. Second party working has filed this application for permission to withdraw the amount deposited by the first party. It is submitted by the second party that, the second party was a permanent workman of the first party and working since 02.11.2008 and his last drawn wages was Rs.9850/- per month. He also an active member of internal Trade Union. By this reason his alone his services were dismissed on 15.02.2014 without charge-sheet, enquiry.

The said dismissal order is challenged in present dispute and at the evidence stage the first party went into Corporate Insolvency Resolution Process as it defaulted on payment to banks by order dated 15.12.2017. Pursuant to this, the national Company Law Tribunal issued a moratorium.

The first party filed an application for stay to the proceedings but the Hon'ble Court by its order dated 03.07.2018 proceeded the matter as it was related to illegal termination. The first party challenged the aid order in Writ Petition No.9202/2018 and others before the Hon'ble Bombay High Court, the Hon'ble High Court passed an order dated 05.10.2018, directing that in case moratorium is lifted and there is change is agreement, the matter could be decided accordingly and till then matter may be adjourned. In the order passed in Writ Petition No.8598 of 2016 and others dated 28.09.2016, the first party was directed to deposit Rs.1,50,000/- before Labour Court and accordingly the first party has deposited the directed amount. Out of that 25,000/- was permitted to withdrawn accordingly Rs.25,000/- are withdrawn and Rs.1,25,000/- are in deposit of the Hon'ble Labor Court.

The second party submit that, the moratorium is already lifted by order dated 14.05.2024 and the second party attempted to proceed the matter by taking appropriate steps. Since the date of termination, the second party is unemployed and does not have any

sources of income. The first party being purchaser of company attempting to prolong the matter. Therefore, requested that to avoid starvation of second party, he may be permitted to withdraw the deposit amount. Hence it is prayed that the Hon'ble Tribunal may be pleased to direct the office for disbursement of the said deposit amount in favour of the second party.

On the other hand the first party submits that, the second party has filed the application for withdrawal of deposited wages pursuant to the order dated 05.10.2018 passed by the Hon'ble High Court as cited in the application.

It is pertinent to note that the Hon'ble High Court, in para No.12 of the order dated 05.10.2018, has categorically directed to deposit the said wages in FDR for initial 6 months and thereafter, to decide the further FD for a period as this Hon'ble Court deem necessary.

It is clear from the said order that, this Hon'ble Court can decide the period of FD of such amount and the Hon'ble High Court has not granted liberty to allow the said amount.

Thus, the first party has formed a bonafide opinion that, the amount, as sought by the second party, cannot be allowed to be withdrawn. Hence, the undersigned first party has prays this Hon'ble Court to kindly reject the instant application.

Heard both sides. Admittedly, the first party has deposed that, the amount in pursuance of order passed in W.P No.8598/2016 and others, dtd.28.09.2016, as per the said order permission was granted to the second party to withdraw Rs.25,000/- and rest of the amount i.e. Rs.1,25,000/- is kept in FDR. Now the second party workman is seeking for permission to withdraw the remaining amount i.e. Rs.1,25,000/-, it the contention of second party workman that, moratorium is already lifted by order dtd.14.5.2024 and the second party has attempted to proceed with the case, for that purpose he has taken appropriate steps. It is also submitted

that, since the date of termination second party is unemployed and he has not having any source of income. The first party i.e. purchaser is prolonging the case, therefore deposited amount be given to the second party. On the other hand it is submitted by the first party that, if the order of Hon'ble High Court is pending then it can be gathered that, Hon'ble High Court has directed this court to decide the period of FDR, however, Hon'ble High Court has not granted liberty to grant the permission to withdraw the amount.

On perusal of order in W.P. No.9202/2018, it appears that, in para No.12 Hon'ble High Court has observed as follows :

12. The amounts deposited in each of the reference cases before the Labour Court shall be invested in Fixed Deposit Receipts by the Labour Court in a Nationalized Bank, initially for a period of 6 months and in the event the matters are to proceed with a contest between the parties, the Labour Court would decide further F.D. investment of the amounts for a period as it may deem appropriate till the decision in the reference cases and shall therefore pass necessary order in this regard.

On perusal of above referred findings of Hon'ble High Court it appears that, directions were given to invest Rs.1,25,000/- out of deposited amount of Rs.1,50,000/- in nationalized bank, as per the said directions amount is already invested in FDR. So far as the question of granting permission for withdrawing this amount is concerned admittedly, Hon'ble Bombay High Court has directed in the event the matters are to proceed with contest between the parties this court would decide further F.D. investment of the amount for a period as it may deem appropriate till the decision of reference, it means that, if the matter is contested by both sides, it is necessary for this court keep the amount in FDR till the conclusion of case. Therefore considering this aspects I came to the conclusion that, permission can not be granted to the second party to withdraw the

amount, in my opinion it will be just and proper direct the Sr. Clerk of this court who is dealing with the accounts to direct to renew the FDR continue conclusion of this proceeding, hence I pass following order :

ORDER

The application is rejected. Sr. Clerk of this Court is hereby directed to renew the FDR if not already renewed the amount shall be kept in FDR until conclusion of this proceeding.

Sd/-

[S. S. Sahasrabudhe]

Judge,

Labour Court-2, Aurangabad.

Place: Aurangabad

Date: 05/04/2025