

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.4652 OF 2002

1) Jawahar s/o Balkisanji Jaju,
Occupation – Proprietor Shyam Talkies,
R/o Godhani Road, Yavatmal,
Tahsil and District Yavatmal.

2) The Manager,
Shyam Talkies, Yavatmal,
Tahsil and District Yavatmal.

.... **PETITIONERS**

VERSUS

Subhash s/o Vyankatrao Kanase,
Aged about 52 years,
Occupation – Service,
R/o Shirbhate Plot, Benjar Nagar,
Yavatmal, Tahsil and District Yavatmal.

.... **RESPONDENT**

Shri N.R. Saboo, Advocate for the petitioners,
None for the respondent.

CORAM : R.K. DESHPANDE, J.
DATED : 21st DECEMBER, 2013.

ORAL JUDGMENT :

1. This petition is filed by the employer challenging the judgment and order dated 22-10-2002 passed by the Industrial Court,

Yavatmal, dismissing the revision challenging the judgment and order dated 31-1-2002 passed by the Labour Court, Yavatmal allowing Complaint (ULP) No.117 of 1995 and directing reinstatement of the complainant in the post of Assistant Operator and to pay him full back wages after adjusting an amount of retrenchment compensation.

2. On 20-3-2003 this Court passed an order as under :-

*“Heard Mr. Saboo, learned Counsel for petitioners.
The respondent though served, none appeared for
him.*

Rule.

*Counsel for petitioners states that 75% of amount of
back wages of the respondent is already deposited in this
Court. In that view of the matter, interim relief in terms of
prayer clause “iii”.*

3. In the petition, a statement is made in paragraph 6 that during the pendency of revision before the Industrial Court, the petitioner permitted the respondent to join the duty. In view of the aforesaid order passed by this Court on 20-3-2003, it was only the stay to the payment of back wages over and above 75%. The petitioner has attained the age of superannuation. The amount of 75% of back wages had been withdrawn by the petitioner upon furnishing solvent surety to the satisfaction of the Registrar of this Court.

4. The setting aside of termination by the Labour Court was only on the ground of violation of Section 25F of the Industrial Disputes Act, 1947. Keeping in view the facts and circumstances of the case, the judgment and order impugned passed by the Labour Court and has been confirmed by the revisional Court needs to be set aside to the extent it grants full back wages to the complainant. The amount of 75% back wages deposited by the petitioners and withdrawn by the respondent-employee shall not be recovered. The petition accordingly stands disposed of. No order as to costs.

JUDGE.

pma