

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2328 OF 1995

Shetkari Sahakari Sakhar Karkhana Ltd.,
Killari, Taluka Ausa, District Latur.

..Petitioner

Versus

1. Babulal Mahetab Shaikh,
Aged about 50 years, Occ. Agriculture,
R/o Nagarsoga, Taluka Ausa,
District Latur.

2. The Presiding officer,
Labour Court, Latur.

3. The Honourable Member,
Industrial Court, Solapur.

..Respondents

...
Advocate for Petitioner : Shri S.S.Choudhari
Advocate for Respondent 1 : Shri A.S.Deshmukh
Respondents 2 & 3 : Deleted
...

CORAM : RAVINDRA V. GHUGE, J.
Dated: December 03, 2015
...

ORAL JUDGMENT :-

1. This petition was admitted after hearing both the sides by order dated 10.6.1998. This Court was intimated, when the said order was passed, that the employer has made some arrangement for the respondent. This Court, therefore, directed the petitioner to reinstate respondent No.1, with immediate effect and with continuity of service. Back-wages were stayed.

2. Respondent Nos.2 and 3 are the Labour Court and the Industrial

Court. I, therefore, direct the petitioner to delete respondent Nos.2 and 3.

3. Shri Choudhary, learned Advocate has strenuously criticized the impugned judgment of the Labour Court dated 3.2.1989 in Application BIR No.1 of 1982. He has also strenuously criticized the judgment of the Industrial Tribunal dated 6.9.1994, delivered in Appeal BIR No. 2 of 1989. He has also assailed the order of the Industrial Court, dated 22.3.1995 by which the Review Application (IC) No. 2 of 1994, preferred by the petitioner was rejected.

4. I have heard Shri Choudhary, learned Advocate at length. I have also heard Shri Deshmukh, learned Advocate on behalf of the respondent / employee. With the assistance of the learned Advocates, I have gone through the record available.

5. Despite the lengthy submissions of the learned Advocates, the only issue that requires consideration is as to whether the petitioner had terminated the services of the respondent by following the due procedure laid down in law.

6. It is undisputed that the respondent was terminated by way of punishment after suspending him with effect from 14.2.1982 and after levelling charges upon him. However, no domestic enquiry was conducted against him. While issuing the order of termination, the petitioner has

attached a stigma to the service of respondent No.1.

7. I have gone through the order of termination dated 25.3.1982, below Exhibit U/6/5. Same is issued by the Managing Director of the petitioner. Following charges are levelled upon the respondent:-

(a) Respondent is not behaving in a proper and responsible manner.

(b) Respondent is under suspension with effect from 14.2.1982.

The Management has finally decided to end the services of the respondent by terminating him with immediate effect from the date of issuance of the order of termination.

8. It is, therefore, apparent that a charge of improper behaviour and irresponsible behaviour was levelled upon the respondent. Admittedly, a domestic enquiry, as required to be conducted under the Rules was not conducted by the petitioner.

9. In the BIR Application No.1 of 1982, the petitioner could not prove the charges against the respondent. Moreover, I find that the order of termination by which the charge of improper behaviour and irresponsible behaviour was levelled upon the respondent, same was a vague and ambiguous charge. A specific charge sheet or imputations (of charges) against the respondent were not placed before the Labour Court.

10. In the above backdrop, the Labour Court rightly allowed the application by its judgment dated 3.2.1989. For similar reasons, the Industrial Court dismissed Appeal - BIR No.2 of 1989 by the impugned judgment dated 6.9.1994. Review Application was also rejected by the impugned order dated 22.3.1995.

11. This Court had stayed the payment of backwages by its order dated 10.6.1998. Therefore, though this petition is being dismissed for being devoid of merits, the amount of backwages will not carry interest as this Court has stayed its payment on 10.6.1998.

12. Nevertheless, as this petition is being dismissed, in the event the petitioner pays the backwages to the respondent within a period of 12 weeks from today, same shall not carry any interest. However, if the said amount is not paid within a period of 12 weeks, the respondent will then be entitled for a simple interest of 3% p.a. over the said amount from the date of judgment of the Labour Court, which is 3.2.1989.

13. Considering the above, this petition is dismissed.

14. Record and proceedings received from the Labour Court, Latur shall be returned to the said Court expeditiously.

15. Rule is discharged. No order as to costs.

(RAVINDRA V. GHUGE, J.)

...

akl/d