

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3605 OF 2014

Sow. Mangal Dhanraj More,
Age 43 yeas, Occ. Service
R/o In front of MIDC Police Station.
In the building of Dr. Talegaonkar,
Latur.

..Petitioner

Versus

The Managing Director,
Indira Sahakari Soot Girni
Maryadit, MIDC,
Plot Nos. F-125 to F-137,
Latur.

..Respondent

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Advocate for Petitioner : Shri Ghute A.T.
Advocate for Respondent 1 : Shri Kulkarni G.N.(Mardikar)

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 13, 2015

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ORAL JUDGMENT :-

1. Heard.

2. Rule.

3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. The petitioner is aggrieved by the judgment of the Industrial Court dated 14.9.2012 delivered in Revision (ULP) No. 47 of 2011. Grievance of

the petitioner is that the said Revision filed by the respondent / management has been allowed and the Industrial Court has quantified backwages for an amount of Rs.60,000/- for the entire period from termination dated 13.11.2000 till the date of reinstatement dated 8.7.2009.

5. The petitioner contends that her termination dated 13.11.2000 has been quashed and set aside. She has been reinstated. This conclusion of the Labour Court has not been challenged by the respondent / management and the order of reinstatement has attained finality.

6. Learned Advocate further submits that the petitioner was reinstated by an order dated 10.8.2001 passed on an application for interim relief in Complaint (ULP) No.95 of 2000 filed by the petitioner. However, she has not been paid her wages and the Industrial Court has quantified the backwages for the entire period of unemployment.

7. It is further stated that the petitioner was residing with her brother and had no work to do. Despite attempts, she failed to secure any employment. It is, therefore, submitted that once the termination is held to be illegal and unsustainable, the employer needs to be penalized with the direction of payment of full backwages for the unemployment suffered by the petitioner.

8. Shri Kulkarni, learned Advocate appearing on behalf of the respondent / management submits that the Complaint filed by the

petitioner was dismissed in default on 21.1.2003. Naturally, there was no interim order in existence ever since the dismissal of the complaint in default. The Labour Court restored the Complaint on 4.7.2008, which is after a period of almost 5 years and 6 months. Pursuant thereto, the complaint was allowed by the judgment of the Labour Court dated 10.8.2011 directing the respondent to pay backwages from the date of dismissal till the reinstatement of the petitioner.

9. He further submits that the respondent pointed it out to the Industrial Court in the Revision Petition that the petitioner cannot draw advantage of a self created situation. Her complaint was dismissed due to laxity and negligence on her part. Same was restored after 5 years and 6 months. For this period and the delay therefore, caused in the decision in the complaint cannot be attributed to the respondent. If the complaint had been dismissed in default and the adjudication of the complaint has been delayed by 5 years and 6 months due to the conduct of the petitioner, the respondent cannot be made liable to pay backwages even for this period. He, therefore, prays for the dismissal of the petition.

10. I have considered the submissions of the learned Advocates as have been recorded herein above.

11. The complaint filed by the petitioner has naturally got delayed by 5 years and 6 months on account of the act of the petitioner. Had the complaint not been dismissed in default, the Labour Court could have

decided the complaint much earlier. For this period of the delay caused, the respondent cannot be held responsible. The Industrial Court has granted an amount of Rs.60,000/- by quantifying compensation in lieu of backwages for the period 30.11.2000 till 8.7.2009.

12. In the light of the above, I do not find that the Industrial Court has committed any error. The impugned order is neither perverse nor erroneous. This petition being devoid of merits is, therefore, dismissed.

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

(RAVINDRA V. GHUGE, J.)

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akl/d