

kps

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7634 OF 2012

Tulsiram Haribhau Magar,
Age : 65 years, Occ : Nil,
R/o Mula Nagar, Taluka Rahuri,
District Ahmednagar.

...PETITIONER

-VERSUS-

Mahatma Phule Krishi Vidyapeeth,
At.Post.Vidyapeeth, Taluka Rahuri,
District : Ahmednagar.
Through it's Registrar.

...RESPONDENT

.....

Mr.PV.Barde, Advocate for the Petitioner.
Mr.PL.Shahane, Advocate for the Respondent.

.....

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th July, 2015

Oral Judgment:

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 This matter was heard on 08.07.2015 and was heard today at
length.

3 The Petitioner/ Workman is aggrieved by the judgment and order dated 11.07.2012 delivered by the Industrial Court in Revision (ULP) No.27/2010 which was preferred by the Respondent/ Agricultural University.

4 I have heard the learned Advocates who have canvassed a host of factors. In the light of the order that I propose to pass and the fact that Revision (ULP) No.27/2010 is being remitted back to the Industrial Court for a fresh hearing, I do not intend to advert to, the entire contentions of the learned Advocates since it would lead to certain observations and which are likely to create hurdles in the respective claims of the litigating sides.

5 Suffice it to say that the Petitioner/ Workman, who was retrenched w.e.f. 01.04.2001 as a part of retrenchment of thousands of daily rated workers in three agricultural universities in Maharashtra including the Respondent herein, had preferred Complaint (ULP) No.32/2002 before the Labour Court. By the final judgment and order dated 05.02.2010, the complaint was partly allowed and the Petitioner/ Workman was granted reinstatement till the date of superannuation with continuity and all benefits incidental thereto.

6 The Petitioner submits that the Respondent/ University preferred Revision (ULP) No.27/2010 before the Industrial Court alleging perversity in the conclusions of the Labour Court. It is evident from the impugned judgment of the Industrial Court dated 11.07.2012 that it has reproduced the contentions of both the sides and has also considered the conclusions drawn by the Labour Court. Having considered the submissions of the litigating sides and their contentions assailing and supporting the judgment of the Labour Court respectively, the Industrial Court was expected to uphold the judgment delivered by the Labour Court on the ground that there is no perversity in the said judgment. It could not have set aside the judgment of the Labour Court concluding that the same is perverse without having adduced reasons to indicate the perversity that it had noticed in the judgment.

7 I find that the Industrial Court despite having considered the fact situation in extenso, has finally concluded as follows:-

“..... In my opinion, the learned Judge, Labour Court without applying his mind and without considering the settled legal position passed the order. It also appears that the order is passed with predetermined view. In the circumstances the order passed by the learned Judge, Labour Court deserves to be quashed and set aside and the matter deserves to be remanded back for fresh arguments and judgment

before the learned Judge, Labour Court. The matter is required to be remanded back for the simple reason that under Section 44 of the Act this Court has got very limited jurisdiction and cannot assess and reappreciate the evidence before the learned Judge, Labour Court. Hence, there being limitation there is no alternative but to remand the matter back for fresh judgment and order.”

8 Shri Barde, learned Advocate for the Petitioner/ Workman, has criticized the said conclusions. Per contra, Shri Shahane, learned Advocate for the Respondent/ Employer, has vehemently supported the said conclusions.

9 In my view, the Industrial Court could not have concluded that the Labour Court had a predetermined view until it concluded as to what was the perversity in the judgment of the Labour Court. What were the circumstances that became a foundation of the view of the Industrial Court that the Labour Court had a predetermined view, are unexplained. This conclusion is rendered unsustainable not only for this reason, but on account of the further observations of the Industrial Court that since its jurisdiction was limited, it could not assess and re-appreciate the evidence led before the Labour Court.

10 If the Industrial Court had not assessed or appreciated the

evidence before the Labour Court, it could not have come to the conclusion that the Labour Court has a predetermined view. So also, there is no conclusion by the Industrial Court that the judgment of the Labour Court is rendered perverse and erroneous.

11 In the light of the above, the impugned judgment of the Industrial Court dated 11.07.2012 is rendered unsustainable. Writ Petition is, therefore, partly allowed. The impugned judgment dated 11.07.2012 delivered by the Industrial Court is quashed and set aside. Revision (ULP) No.27/2010 is remitted back to the Industrial Court for a re-hearing.

12 The litigating parties shall appear before the Industrial Court on 01.08.2015. Separate notices need not be issued by the Industrial Court.

13 The Industrial Court shall decide the said revision petition as expeditiously as possible and preferably on or before 30.11.2015.

14 Needless to state, the Petitioner/ Workman shall not initiate steps for seeking execution and operation of the judgment of the Labour Court dated 05.02.2010 delivered in Complaint (ULP) No.32/2002 since the Industrial Court would be considering the challenge to the said

judgment in the said revision petition.

15 The litigating sides state that they shall not seek adjournments on unreasonable and frivolous grounds.

16 While delivering this judgment, I have not made any observations on the merits of the matter. The Industrial Court shall, therefore, decide the said revision petition on its own merits in the light of the respective contentions put forth by the litigating sides. All contentions of both the sides are kept open.

17 Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)