

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7637 OF 2013

Mohammed A. Patharia
Vs
Yashwant Gaikwad and Anr.

Petitioner
.. Respondents

Mr. Kunal Bhange, Advocate for Petitioner.

Mr. Yashwant P. Gaikwad, respondent-in-person present in Court.

CORAM : R.G.KETKAR,J.
DATE : 11/02/2015

PC:

1. Heard Mr. Kunal Bhange, learned counsel for the petitioner and respondent no.1-Yeshwant P. Gaikwad in-person. Mr. Bhange states that within one week from today, he will file Vakalatnama on behalf of the petitioner. On oral application of Mr. Bhange, respondent no.2 is deleted from the present proceedings. Amendment shall be carried out forthwith.

2. Rule. At the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

3. By this petition under Article 226 of the Constitution of India, the petitioner has challenged the Judgment and Award dated 16.7.2011 passed by the learned Presiding Officer, 8th Labour Court, Mumbai in Reference (IDA) No.301 of 2008 as also the Judgment and order dated 20.3.2013 passed by the learned Presiding Officer, 8th Labour Court, Mumbai in Misc. Application

(IDA) No.48 of 2011. By order dated 16.7.2011, the reference was partly allowed and the Labour Court held that the respondent is entitled to reinstatement with 50 % back wages with continuity of service with effect from 20.5.2006. The petitioner made application under Rule 26(2) of the Industrial Disputes (Bombay) Rules, 1957 for setting aside the exparte Award. By the order dated 20.3.2013 the application for restoration was rejected.

4. Mr. Bhange states that the petitioner and the respondent have settled the dispute. The petitioner has agreed to pay Rs.25000/- as and by way of full and final settlement towards the claims of the respondent flowing from the order dated 16.7.2011. Mr. Bhange states that petitioner and the respondent are present in Court. Mr.Bhange has tendered Consent Terms signed by the petitioner and the respondent. The same are taken on record and marked 'X' for identification. Mr.Bhange has also tendered photocopy of identity card of the respondent issued by Election Commission of India as also Ration Card. The same are taken on record and marked "Y" collectively for identification.

5. Mr. Bhange states that the petitioner has paid Rs.25,000/- in cash to the respondent. Mr Gaikwad acknowledges receipt of Rs.25,000/- in cash.

6. Mr. Gaikwad further admits and confirms that it is as and by way of full and final settlement of all his claims and benefits

arising from the order dated 16.7.2011. He further agrees for setting aside the impugned orders and substituting the same by the Consent Terms.

7. In view thereof, the impugned orders are quashed and aside and in their place the Petition is disposed of in terms of the Consent Terms. Rule is made absolute with no order as to costs.

(R.G.KETKAR, J.)