

Sequeira

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

WRIT PETITION NO. 9685 OF 2015

Shri Vithal Pandit Khandale.

.. Petitioner

Vs.

The Director,

Armament Research & Development & anr.

.. Respondents

Ms Kumud Bhatia, for the Petitioner.

None for Respondents.

CORAM: N.M.Jamdar, J.

Wednesday 21 October, 2015

P.C. :

The Petitioner challenges the order dated 2 March 2013 passed by the Labour Court, Pune. The Labour Court had partly answered the reference in affirmative and had directed the Armament Research Officers Mess and Institute (AROMI) to reinstate the Petitioner on his original post with continuity of service within three months and claim for back wages was rejected.

2. The learned counsel for the Petitioner submitted that though the Presiding officer was right in granting reinstatement, has erred in granting reinstatement to the Petitioner in the services of AROMI when it should have been the services of the Director of The Armament Research and Development Establishment (A.R.D.E) which was made party to the reference. The submission cannot be

accepted. The Labour Court has considered the evidence produced on record. The certificate produced on record shows that the employment of the Petitioner was with AROMI as a supervisor and it is AROMI who had terminated the services. The Court has also held that AROMI is an industry. The Court also found that the canteen hall of ARDE is given to AROMI and mess is run in the hall where the Petitioner was working. The Court took note of the certificates produced on record at Exh.72, 73, 76 which shows that Petitioner was working in AROMI. Letters have been issued by AROMI to the Petitioner to improve his work and thereafter services have been terminated by AROMI. The learned counsel for the Petitioner has drawn my attention to certificate dated 1 July 1998. However this certificate does not further the case of the Petitioner as it is stated therein that Petitioner was working with AROMI as a supervisor. Therefore the Petitioner whose services were engaged by AROMI, discontinued by AROMI, has been reinstated in the services of AROMI. The Petitioner cannot claim reinstatement in the services of ARDE.

3. As regards the back wages are concerned the Petitioner has not pleaded that after his employment he was not gainfully employed elsewhere. In spite of placing on record all other aspects in detail he has not mentioned about his gainful employment aspect. In the cross-examination he has admitted that he is gainfully employed. In the circumstances the Labour Court has rightly refused the back wages as claimed.

4. The learned counsel for the Petitioner submitted that after the impugned order the Petitioner approached AROMI for reinstatement but they have refused. She submitted that AROMI has not challenged the impugned order. If that be so Petitioner would be entitled to reinstatement as ordered. Law provides remedy of execution as well as coercive steps to get the order implemented. The Petitioner will be entitled to adopt those remedies. In the circumstances, it is not necessary to interfere with the impugned order. The petition is accordingly rejected.

(N.M.Jamdar, J.)