

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9571 OF 2014

Training cum Production Centre for Ex-Servicemen ... Petitioner
Vs.
Uttan Bhairu Shewate and another ... Respondents

Mr. Kiran Bapat i/b. Mr. Avinash Fatangare for Petitioner.
Mr. M. S. Topkar i/b. Mr. Vaibhav Gaikwad for Respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : 26TH FEBRUARY, 2015

P.C. :

Heard Mr. Bapat, learned Counsel for petitioner and Mr. Topkar, learned Counsel for respondent No.1 at length. Rule. Mr. Gaikwad waives service for respondent. At the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing. Notice of Rule on respondent No.2 - Presiding Officer, Labour Court, Satara is dispensed with as being a formal party, no relief is claimed against it.

2. By this Petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the judgment and award dated 30.05.2014 passed by the learned Presiding Officer, Labour Court, Satara in Reference (IDA) No.14 of 2008. By that order, Labour Court allowed the Reference and held that the petitioner has wrongfully terminated the services of the respondent-second party. The Labour Court directed the petitioner to reinstate the respondent on his original post along with continuity of service with effect from 01.09.2003. The Labour Court also directed the petitioner to pay back-wages for the period from 01.09.2003 till he is reinstated. The compensation amount of Rs.64,987/- was ordered to be adjusted while paying the back-wages.

3. Mr. Topkar submitted that at the time of terminating the services

of the respondent, the petitioner did not publish the seniority list. He submitted that the petitioner had issued seniority list as on 25.02.2003. However, the said seniority list could not be produced by the respondent before the Labour Court. Mr. Topkar, upon taking instructions from the respondent, who is present in the Court, states that the impugned order may be set aside so as to enable the parties to lead additional evidence.

4. Mr. Bapat advanced various submissions. However, it is not necessary to deal with the submissions as Mr. Topkar has conceded for setting aside the impugned order. Mr. Bapat also, upon taking instructions from Mr. Sanjay Kate, Deputy Manager of the petitioner, states that petitioner has no objection for adopting such course.

5. In view thereof, by consent of the parties, Rule is made absolute in the following terms:

- a. The impugned order is set aside and Reference (IDA) No.14 of 2008 is restored to the file of the Labour Court;
- b. The parties agree that they will appear before the Labour Court on 16.03.2015 and for that purpose, no fresh notice be issued to them;
- c. The parties are at liberty to lead additional evidence in support of their respective case;
- d. The Labour Court will decide the Reference afresh on the basis of evidence already on record as also additional evidence, if any, produced by the parties;
- e. All the contentions of the parties on merits are expressly kept open.
- f. Parties including the Labour Court to act on the authenticated copy of this order.

(R. G. KETKAR, J.)