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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 2107 OF 2015

Mr. Sandeep Vasant Kasbe.

... Petitioner.

V/s.

Godrej & Boyce Mfg. Company Ltd.

... Respondent.

Mr. Ravindra V. Sankpal for the Petitioner.

Mr. Neel Helekar a/w. A.K. Gopalan i/b. Haresh Mehta & Co. for
the Respondent.

CORAM : N.M. JAMDAR, J.

DATE : 05 OCTOBER, 2015.

P.C. :-

By this Petition the Petitioner – workman challenges the order passed by the Labour Court, Mumbai dated 26 March 2015 setting aside his dismissal but granting lump-sum compensation of Rs.5,00,000/- in lieu of reinstatement and continuity of service.

2. The Respondent instituted an enquiry against the Petitioner. Three charges were framed against the Petitioner. They were under clauses 22(6), 22(11) and 22(12) of the certified Standing Orders as under :-

“22(6) : Habitual absence without permission or absence without permission for a period exceeding ten consecutive days or overstaying the sanctioned leave for a period not exceeding ten consecutive days or overstaying the sanctioned leave for a period not exceeding ten consecutive days without sufficient grounds and proper or satisfactory explanation.

22(11) : Drunkenness or riotous, disorderly or indecent behaviour, use of abusive language, threatening, intimidating, coercing other employees or wrongful interfering with the work of other employees, assault or threat of assault either provoked or otherwise within the establishment.

22(12) : Commission of any act subversive of good behaviour within the establishment or of the discipline of the establishment.”

3. The charge under Standing Order 22(6) was framed vide charge-sheet dated 13 October 2004 and other 2 charges were by a charge-sheet dated 20 October 2006. The charges primarily were regarding misconduct of abusing the superiors and habitually remaining absent. The Labour Court came to the conclusion that the charges were proved and enquiry was fair and

proper. The Labour Court held that however considering the state of mind of the Respondent, a dismissal from services without any relief whatsoever would be a disproportionate action. The Labour Court found that the dismissal was of the year 2008. The dismissal was being set aside on technical ground and the reinstatement will affect the discipline in the Company and accordingly granted compensation of Rs.5,00,000/-.

4. I am of the opinion that the Labour Court has by granting a relief of compensation has granted an indulgence to the Petitioner. However, since there is no challenge to this order by the Respondent, I am not interfering with the grant of compensation. The learned Counsel for the Petitioner urged that instead of compensation, relief of reinstatement with back wages ought to have been granted and the Petitioner is prepared to re-deposit the amount of Rs.5,00,000/- which he has accepted. In paragraph 44 of the impugned order the Labour Court has reproduced the earlier conduct of the Petitioner as under :-

“44. The first party produced the documents pertaining to past service record of the second party under list at Exh.C-6. On 13.04.1996, the second party was warned for loitering in the plant, leaving the place of work (Exh.U-29). Again he was warned on 06.05.1996 and 05.08.1996 (Exh.U-31) for the same thing. The second party was issued show cause notice on 11.02.2002 for Habitual absence. On 14.03.2002 (Exh.U-32), the second party was warned for not reporting on duty. Vide Ex. U-33 dated 23.05.2002 the

second party was punished for gross neglect of work. On 12.06.2002 vide Exh. U-34 the second party was issued the charge-sheet for unauthorized absence. On 13.05.2003 vide Exh. U-36 the second party was suspended alleging the charge of willful insubordination and indiscipline. On 14.06.2005 vide Exh. U-39, the second party was warned for using abusive language against superior. On 15.07.2005, the second party was found missing from his work place, therefore he was punished vide letter at Exh.U-41. He was not paid the wages on the principle of no work no pay. On 28.11.2005 the second party was served with the chargesheet dated U-46 for remaining absent in October and November 2005. He was charged under clause 22(1), 22(8) and 22(12) of the certified standing orders. But lenient view has been taken and second party was set free on warning vide letter at Exh.U-47. Again he was issued chargesheet under clause 22(1), 22(8) and 22(12) of the certified standing orders. Said chargesheet dated 26.12.2005 is at Exh.U-48, the receipt of said chargesheet has been admitted by second party. Some office communications are also produced in original but the second party denied by putting remark on the said documents, hence they are not referred. Again lenient view has been taken in respect of chargesheet dated 26.12.2005 and the second party was warned on 03.05.2006 vide warning letter at Exh.U-49.”

5. It appears that the incident alleged against the Petitioner is not an isolated one. The labour Court has noted that the Petitioner was being paid Rs.2/- towards wages and that may have led to the conduct in question. However, the learned Counsel for the Petitioner is not able to show any material on the basis which this finding is reached by the Labour Court.

6. As far as the challenge to the enquiry is concerned, the Labour Court after examining the enquiry proceedings and the opportunities that were given to the Petitioner came to the conclusion that the enquiry was fair and proper. The Labour Court has taken note of each argument of the Petitioner and has found that the procedure adopted in the enquiry was fair and proper. Thus, the only question that remains as to whether reinstatement with back wages need to be granted. As stated earlier, the Labour Court has granted indulgence to the Petitioner by directing payment of Rs.5,00,000/-. In the circumstances, no interference in writ jurisdiction is warranted. The Writ Petition is accordingly rejected.

(N.M. JAMDAR, J.)

C E R T I F I C A T E

Certified to be true and correct copy
of the original signed Order.