

JPP

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

WRIT PETITION NO. 2110 OF 2015

Mr. Ravindra Baban Dongre.

... Petitioner.

V/s.

Godrej & Boyce Mfg. Company Ltd.

... Respondent.

Mr. Prashant Dingrani i/b. 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 27 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(1), 22(11) and 22(12) of the certified Standing Orders as under :-

“22(1) : Willful insubordination or instigation thereof or disobedience or instigation thereof alone or in combination with another, of any lawful and reasonable order of superior.

22(11) : Drunkenness or riotous, disorderly or indecent behaviour, use of abusive language, threatening, intimidating, coercing other employees or wrongfully 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 charges were framed vide charge-sheet dated 19 October 2006. The charges were primarily regarding insubordination and untruly behaviour and act subversive of good behaviour. The Labour Court came to the conclusion that the charges were proved and enquiry was fair and proper. The Labour Court however considering the state of mind of the Respondent, held that 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, granted compensation of Rs.5,00,000/-.

4. The Labour Court found that the enquiry was fair and proper. The findings of the Enquiry Officer were not perverse. The charges that were proved were that the Petitioner without any reason or provocation entered into an altercation with his superior and used abusive and filthy language. The Petitioner continued with his indecent and arrogant behaviour.

5. The Labour Court has took note of the legal position that though it is settled that normally, Courts and Tribunals will not interfere with the decision taken by the authority regarding penalty, it can always consider if the imposition of punishment is proportionate. The Labour Court considered the decisions relied upon the parties in respect of powers of the Court or modifying the punishment. The Labour Court found that the state of mind of the Petitioner needs to be taken into consideration and therefore, dismissal from service completely will not be in the interest of justice. The learned Counsel for the Petitioner urged that the Petitioner was entitled to reinstatement with full back wages. The Labour Court has taken note of the fact that due to passage of time and the incident that has taken place, it will not be appropriate to grant relief of reinstatement with back wages. Nothing has been shown as to how the findings in the enquiry perverse and the enquiry was held in the breach of principles of natural justice. The

Labour Court has exercised its discretion under Section 11-A of the Industrial Disputes Act in granting compensation of Rs.5,00,000/- . There is no challenge to grant of compensation by the Respondents.

6. Considering the factum of discipline in the institution, the discretion used by the Labour Court in modifying the punishment but not granting reinstatement in service is correct and proper. Total dismissal from service without anything at all would be harsh but reinstatement in service with back wages, considering the misconduct that has been proved, is not warranted.

7. The discretion used by the Labour Court being fair and proper, no case is made out for interference in writ jurisdiction. 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.