

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.1631 of 2015
(Shri Sunil s/o Bhikaji Werulkar v. Central Bank of India, through its Regional
Manager, Akola)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's order

Court's or Judge's orders

Smt. S.W. Deshpande, Advocate for Petitioner.
Shri N.W. Almelkar, Advocate for Respondent.

Coram : R.K. Deshpande, J.

Date : 6th October, 2015

In exercise of the power conferred by clause (d) of sub-sections 1 and 2(A) of Section 10 of the Industrial Disputes Act, 1947, the Central Government Industrial Tribunal-cum-Labour Court, Nagpur ("CGIT") had made a reference of industrial dispute between the petitioner and the respondent. The schedule of reference is reproduced below :

"Whether the action of the management of Central Bank of India, through the Regional Manager, Akola in terminating the services of Shri Sunil s/o Bhikaji Verulkar w.e.f. 04.12.2000 is justified, legal and proper? If not, what relief the said workman is entitled to?"

The CGIT has recorded the finding that the petitioner has established continuous working from 5-12-1999 to 4-12-2000 as a daily wager.

The continuous service was more than 240 days and there was non-compliance of the provision of Section 25F of the Industrial Disputes Act. The termination is held to be illegal by the CGIT in its award dated 28-7-2014 and the employer is directed to pay the monthly compensation of Rs.1 lac along with 8% interest per annum for failure to pay the said amount within one month from the date of the award. The employer has not come up before this Court, but the statement is made that the employee has accepted the said award and the payment shall be made along with interest within two weeks from today.

The question as to whether the employee should be held to be entitled to reinstatement and back wages upon finding that the termination of retrenchment was in violation of the provision of Section 25F of the Industrial Disputes Act, depends upon the facts and circumstances of each case. There is no finding recorded by the CGIT that there existed the work with the employer on the date of retrenchment of the petitioner. The compensation of Rs.1 lacs has been awarded upon finding that the petitioner had shown to have completed 240 days of continuous service preceding the date of termination. In view of this, no interference is called for in the award passed by the CGIT.

The petition is dismissed.

It is urged by the learned counsel for the petitioner that the employer has appointed certain persons upon availability of the work by issuing the advertisement. The petitioner has not applied in

pursuance of the advertisement on the ground that the reference before the CGIT was pending. It is open for the petitioner to invoke the provision of Section 25H of the Industrial Disputes Act, if it is permissible in law, and the order of this Court shall not come in his way.

Judge.

Lanjewar