

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 3228 OF 1995

- 1- Maharashtra State Road
Transport Corporation, Through
The Divisional Controller, Beed.
- 2- The Divisional Traffic
Superintendent (Default),
M.S.R.T.C., Beed.

... PETITIONERS
(Ori. Respondents)

VERSUS

Radhakishan Dashrath Kanade,
Age major, occupation Asstt. Traffic Inspector,
C/o Laxmi General Stores, Beed Road,
Majalgaon, District Beed.
(Copy served on Advocate Pradeep
Shahane for the Caveator)

... RESPONDENT
(Ori. Complainant)

...

Mr. A. B. Dhongade, Advocate for Petitioners.
Mr. Parag Shahane, Advocate h/f Mr. Pradeep Shahane, for Respondent.

...

CORAM : **P. R. BORA, J.**
DATE : 09th June, 2016.

ORAL JUDGMENT:

. The order passed by the Member Industrial Court,
Aurangabad on 31st March, 1995 in Revision (ULP) No.46 of 1993, is

challenged by the Petitioner in the present petition. The facts, which are relevant for deciding the present petition, are thus:

Respondent herein was terminated by the Petitioners alleging certain misconduct on his part. Against the said order of termination, Respondent had filed Complaint (ULP) No.177 of 1992 before the Labour Court at Aurangabad. Learned Labour Court vide its judgment dated 2nd February, 1993 allowed the said complaint. The learned Labour Court directed the present Petitioners to reinstate the Respondent, however, refused the back-wages. Respondent herein therefore, filed Revision (ULP) No.46 of 1993 only to the extent of relief of back-wages, which was not granted to him by the Labour Court. Learned Industrial Court after considering the issues involved in the matter, allowed the revision application so filed by the Respondent and directed the present Petitioners to pay the back-wages. Said order is challenged in the present petition.

2 After having perused the judgment of the Labour Court in Complaint (ULP) No.177 of 1992 and the judgment delivered by the Industrial Court in Revision (ULP) No.46 of 1993 and after having considered the contentions raised in the present writ petition, apparently it does not appear to me that any interference is required

in the order passed by the learned Industrial Court. When the Labour Court had recorded a clear finding that the termination of the Respondent was colourable exercise by the employer and when it was further observed that nothing was proved against the Respondent and the termination was bad in law, without recording any reason the Labour Court could not have refused the back-wages to the Respondent. Said mistake has been corrected by the learned Industrial Court. The observations made by the learned Industrial Court in para 4 are relevant, which read thus:

“4- In fact without assigning any reasons, the backwages have been denied. If the Labour Court had held that the misconduct had been duly proved and the enquiry was legal and proper but only punishment shockingly disproportionate, then the Labour Court could take to substitute the punishment invoking powers akin to Sec.11-A of the I.D. Act, 1947 as held in one of the cited cases. When categorically the unfair labour practices of victimisation and colourable exercise of employer's right, not in good faith the dismissal had been brought about, then the result was to declare the commission of those unfair labour practices and granting the relief of reinstatement followed with continuity and full backwages. At the cost of repetition, it is to be pointed out that it is not a case of considering

the substitution of punishment. As per the finding of the Labour Court it was not a case to award any punishment as such, and, so no question of substituting the punishment.”

3 In view of the observations made as above, it does not appear to me that any interference is called for in the impugned judgment delivered by the learned Industrial Court. The writ petition is devoid of any substance and deserves to be dismissed. It is accordingly dismissed. Rule discharged.

4 Pending civil application stands disposed of.

[P. R. BORA, J.]

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