

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5230 OF 1995

M/s Nav Maharashtra Cooperative
Fruit Sale Society Ltd., Pachora,
District Jalgaon, through its
Manager - Nimba Trimbak Wani. ..Petitioner

Versus

Nathu Shenfadu Patil,
Age major, R/o Baherpura,
Tq. Pachora, Dist. Jalgaon. ..Respondent

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Advocates appearing for :
Petitioner : Shri S.V.Dixit
Respondent : Shri P.S.Agrawal
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CORAM : RAVINDRA V. GHUGE, J.
Dated : May 12, 2016

ORAL JUDGMENT :-

1. The petitioner is aggrieved by the impugned award dated 10.3.1995, delivered by the Labour Court, Jalgaon in Reference (IDA) No.35 of 1984.

2. It is undisputed that the reference has been partly allowed and the petitioner is directed to pay a lump sum compensation of Rs.53,856/- to the respondent / employee in lieu of loss of future service and other benefits. The petitioner had deposited an amount of Rs.25,000/- in this Court pursuant to the order of this Court and the said amount has been withdrawn by the respondent / employee

after this Court had granted him the liberty.

3. I have heard Shri Dixit, learned Advocate for the petitioner and Shri Agrawal, learned Advocate for the respondent at length. Both have taken me through the entire portions of evidence, reproduced by the Labour Court in its lengthy judgment. I have considered the conclusions of the Labour Court in the light of the submissions of the learned Advocates.

4. It is not disputed that the respondent / employee has not challenged the impugned award dated 13.2.1995, by which, he was refused reinstatement and other consequential benefits.

5. In the light of the above, the conclusions of the Labour Court with regard to the charges proved against the respondent, need not be disturbed since the Labour Court has held that the respondent is guilty of dereliction of duty and other minor misconducts which have been proved against him.

6. Issue, therefore, is as to whether the award of compensation could be considered to be an appropriate order thereby modifying the order of punishment issued by the petitioner / employee.

7. It is trite law that unless the punishment appears to be

shockingly disproportionate, the Court cannot interfere into the same. It is equally trite that the scope of Section 11A of the Industrial Disputes Act, available to a Court or Tribunal to modify an order of punishment, is also in the backdrop of the punishment appearing to be shockingly disproportionate.

8. The acts said to have been committed by the respondent have been proved. The Labour Court has concluded that on account of the mis-conducts of the respondents, the petitioner suffered monetary loss, since other workmen have indulged in misappropriation of funds. Those workmen have also been dealt with by the petitioner in disciplinary proceedings.

9. In the light of the above, I find that the impugned award could be termed as being a result of misplaced sympathy shown by the Labour Court towards the respondent. The Labour Court, therefore, could not have granted compensation to the respondent for an amount of Rs.53,856/-.

10. Notwithstanding the above, it cannot be ignored that the respondent / employee is practically 81 years old today. He has withdrawn Rs.25,000/- with the leave of this Court. As such, though I am interfering with the impugned award, I am restraining the petitioner from recovering the amount of Rs.25,000/- from the

respondent considering his age passage of time and the hardship that would be caused to him.

11. In the light of the above, the impugned award dated 13.3.1995 stands modified by concluding that the respondent was not entitled for any compensation. However, the petitioner is precluded from recovering the amount of Rs.25,000/- withdrawn by the respondent.

12. This petition is, therefore, partly allowed and Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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