

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3855 OF 2016

THE SARPANCH, GRAMPANCHAYAT OFFICE, TER AND ANOTHER	PETITIONERS
VERSUS	
RAMKISSHNA S/O DATTOBA BHORE	RESPONDENT

Mr.M.B.Kolpe, Advocate for the petitioners.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 05/04/2016

PER COURT :

1. The petitioners are aggrieved by the judgment and order dated 31/01/2014 delivered by the Labour Court by which Complaint (ULP) No.52/2011 has been allowed. The petitioners are also aggrieved by the judgment dated 19/09/2015 by which the Industrial Court has dismissed Revision (ULP) No.23/2014 filed by the petitioners.

2. Mr.Kolpe, learned Advocate for the petitioners has strenuously contended that the Labour Court failed to consider the objection raised by the petitioners that the petitioner / Gram Panchayat is not an Industry u/s 2(j) of the I.D.Act, 1947 and therefore the Complaint filed by the respondent is untenable. The Labour Court has erroneously concluded by its order dated 05/01/2012 concluding

that it has jurisdiction to entertain the complaint. Reliance is placed upon the judgment of the learned Division Bench of this Court in the matter of Gram Panchayat, Katil Vs. Presiding Officer, 1st labour Court, Nagpur, 1990(60) FLR 11.

3. It is further contended that the Labour Court has erroneously allowed the complaint by its judgment dated 31/01/2014 despite the fact that there were serious allegations against the respondent. It is further contended that the Industrial Court, by its judgment dated 19/09/2015, has erroneously dismissed the revision petition without properly considering the merits of the matter. When specific objections were raised by the petitioners, the Labour Court as well as the Industrial Court were under an obligation to deal with the same and could not have brushed aside the contentions and objections of the petitioners.

4. I have considered the submissions of the learned Advocate.

5. Whether an Establishment is an Industry or not, is a mixed question of facts and Law. The view taken by the learned Division Bench in the Gram Panchayat, Katil case (supra) was in relation to the activity of the Gram Panchayat of maintaining a cattle pound

which was an essentially governmental function. Considering the said activity, it was held that Gram Panchayat is not an Industry. In the instant case, the petitioners did not lead any evidence in relation to its nature of activities and the job profile/duties performed by the respondent. In the absence of any specific pleading and oral and documentary evidence, the Labour Court concluded that it had jurisdiction to scrutinize the act of termination of the respondent.

6. It cannot be overlooked that the respondent was charged with mis-conducts. Without conducting any enquiry, he was terminated on 26/07/2011. The petitioner did not conduct an enquiry before the Labour Court to prove the charges or allegations against the respondent. In this backdrop, the Labour Court has rightly come to the conclusion that the charges / mis conducts alleged to have been committed by the respondent/employee were not proved before the Labour Court. The Labour Court also took into account the fact that the date of termination of the respondent was 26/07/2011 and he stood superannuated in April 2012. Full back wages were, therefore, granted for the short duration of about 8-9 months.

7. The Industrial Court reconsidered the entire issue while dealing with the revision petition of the petitioners. Considering the

fact that no enquiry was conducted and the petitioners neither cross examined the employee nor led any evidence before the Labour Court, the revision petition was dismissed.

8. It is settled law that if an enquiry is conducted, the issue with regard to the fairness of the enquiry and the findings of the Enquiry Officer are to be framed by a Court in the light of the judgment of the Hon'ble Supreme Court in the matter of Workmen of Motipur Sugar Factory Private Ltd., Vs. The Motipur Sugar Factory Private Limited, AIR 1965 SC 1803 and The Workmen of M/s Fire Stone Tyre and Rubber of India Private Ltd., Vs. The Management and others, AIR 1973 SC 1227 = 1973(1) SCC 813. These aspects could not have been gone into by the Block Development Officer under the Maharashtra Village Panchayat Act as is the contention of the petitioners.

9. In the light of the above, I do not find that the Labour Court or the Industrial Court has committed any error and the impugned judgments do not deserve to be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)