

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3782 OF 2015

- 1 Parner Sahakari Sakhar Karkhana Ltd.
Through Its Liquidator
Shri. Pramod Wamanrao Patil,
Age : 56 years, Occu :- Service,
R/o : At Post. Devibhoyre,
Tal. Parner, Dist. Ahmednagar.
- 2 Parner Sahakari Sakhar Karkhana Ltd.
At. Post. Devibhoyare, Tq. Parner,
Dist. Ahmednagar. ..Petitioners

Versus

Vishnu Rambhau Satpute,
Age : 45 yrs, Occu. Nil.
R/o. At. Post. Chincholi,
Ta. Parner, Dist. Ahmednagar. ..Respondent

WITH
WRIT PETITION NO. 3784 OF 2015

- 1 Parner Sahakari Sakhar Karkhana Ltd.
Through Its Liquidator
Shri. Pramod Wamanrao Patil,
Age : 59 years, Occu :- Service as a Liquidator,
R/o : At Post. Devibhoyre,
Tal. Parner, Dist. Ahmednagar.
- 2 Parner Sahakari Sakhar Karkhana Ltd.
At. Post. Devibhoyare, Tq. Parner,
Dist. Ahmednagar. ..Petitioners

Versus

Ravsahab Nana Chavhan,
Age : 56 Yrs, Occu : Nil.
R/o. At. Post. Soble Wadi,
Tal. Parner, Dist. Ahmednagar. ..Respondent

WITH
WRIT PETITION NO. 3787 OF 2015

- 1 Parner Sahakari Sakhar Karkhana Ltd.
Through Its Liquidator
Shri. Pramod Wamanrao Patil,
Age : 59 years, Occu :- Service,
R/o : At Post. Devibhoyre,
Tal. Parner, Dist. Ahmednagar.
 - 2 Parner Sahakari Sakhar Karkhana Ltd.
At. Post. Devibhoyare, Tq. Parner,
Dist. Ahmednagar.
- ..Petitioners

Versus

Chandrakant Sitaram Thorat,
Age : 54 Yrs, Occu : Nil.
R/o. Dabhade Wada,
Near Marathi Shala, Parner,
Tal. Parner, Dist. Ahmednagar.

..Respondent

**WITH
WRIT PETITION NO. 3788 OF 2015**

- 1 Parner Sahakari Sakhar Karkhana Ltd.
Through Its Liquidator
Shri. Pramod Wamanrao Patil,
Age : 56 years, Occu :- Service,
R/o : At Post. Devibhoyre,
Tal. Parner, Dist. Ahmednagar.
 - 2 Parner Sahakari Sakhar Karkhana Ltd.
At. Post. Devibhoyare, Tq. Parner,
Dist. Ahmednagar.
- ..Petitioners

Versus

Ramdas Mahadu Sonawale,
Age : 45 Yrs, Occu : Nil.
R/o. At. Post. Kanhur Pathar,
Tal. Parner, Dist. Ahmednagar.

..Respondent

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Advocate for Petitioners : Shri Nangare Prashant R.
Advocate for Respondents : Shri Barde P.V.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 14, 2016

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ORAL JUDGMENT :-

1. Heard.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.
4. The petitioner in all these petitions is the same sugar factory. All the respondents in these petitions are similarly situated workmen. Impugned common judgment is delivered in Revision (ULP) No.29, 30, 31 and 32 of 2011, filed by the petitioner before the Industrial Court, Ahmednagar, challenging the judgment of the Labour Court dated 14.3.2011 delivered in Complaint (ULP) Nos.102, 103, 104 and 105 of 2000. Considering the common issue involved, I have heard these matters together.
5. The petitioner is aggrieved by the impugned judgments on the ground that the Labour Court has granted reinstatement to the respondents and the Industrial Court while upholding the said conclusions, has granted 50% backwages to these respondents.

6. The learned Advocates for the respective sides have argued at length.

7. I am not required to consider the entire submissions of the learned Advocates for the reason that in the earlier round before this Court in Writ Petition Nos. 2717, 2719, 2728 and 2730 of 2012, this Court (Coram: S.S.Shinde,J.) by its judgment dated 2.5.2013 had remitted the revision petitions back to the Industrial Court. Grievance of the petitioner is that though the revision petitions were to be decided on their own merits, the Industrial Court in paragraph No.7 of the impugned judgment has concluded that this Court has remanded the matter only for the purpose of deciding the issue of backwages. Shri Nangre, therefore, strenuously submits that the Industrial Court has hence focused only on the issue of backwages and has granted 50% of the backwages to the respondents. The matter was not looked into on its merits.

8. Shri Barde draws my attention to the observations of this Court in paragraph No.8 of the judgment dated 2.5.2013, wherein, this Court has expressed an opinion that the Labour Court has rightly concluded that there is no specific instance or evidence on record against the respondent - employees. He, therefore, vehemently submits that once this Court has concluded the issue, the revisions were remanded to the Industrial Court only to decide whether 100% backwages were rightly granted by the Labour Court or not. He has also canvassed other aspects

of this case, which I am not adverting to in the light of the order that I would be passing.

9. I do find from paragraph No.8 of the judgment of this Court dated 2.5.2013, the observation that there was no specific instance cited by the management with regard to refusal to obey lawful orders / directions of the superior by the respondent / employees. I also find that this Court has opined that there was no sufficient material to indicate that the respondents instigated other workers to delay the work. However, in the same paragraph this Court concluded that, “ *Therefore, in my opinion, the Industrial Court should not have remanded the matters back to the Labour Court.*”

10. It is again observed in the same paragraph that, “*In Revisional jurisdiction the Industrial Court is competent to set aside the findings of the Labour Court which are perverse and contrary to record. Therefore, in my considered opinion, viewed from any angle, the Industrial Court was not corrected and justified in remanding the matters back to the Labour Court. The Industrial Court should have decided the revisions on merits there itself and there was no question of remand of the matters to the Labour Court.*”

11. It was further observed by this Court in paragraph Nos. 9(2) that, “*All contentions on merits are left open to be agitated before the*

Industrial Court.” and further held in paragraph No.9(3) that, “ It is directed that the Industrial Court shall decide those revisions there itself on merits.”

12. In the above backdrop, while delivering the impugned judgments, the Industrial Court has observed in paragraph No.7 as under:-

“The Honourable High Court in this revision mainly directed to decide and consider the issue regarding backwages and entitlement of the same to the present opponent or not?”

13. I am of the view that the directions issued by this Court in the reproduced portions of paragraph No.8 and 9 as above, clearly indicated to the Industrial Court that it had to decide all the revisions on their own merits since all contentions on merits of the litigating sides were left open to be agitated before the Industrial Court. The Industrial Court, therefore, could not have compartmentalized the revision petition only to the extent of grant of backwages.

14. In the light of the above, these petitions are partly allowed. The impugned judgment and order of the Industrial Court, dated 23.9.2013 is quashed and set aside and Revision (ULP) Nos. 29, 30, 31 and 32 of 2011 are remitted back to the Industrial Court. Litigating sides agree to appear before the Industrial Court on 4.2.2016. Formal notices to the sides need not be issued by the Industrial court.

15. It is jointly pointed out by the learned Advocates that the petitioner factory has now been sold to Shree Kranti Sugar and Power Limited, having its registered office at 1710, Sadashiv Peth, Sudarshan Stationary Apartment, Behind Udyan Prasad Mangal Karyalalaya, Pune 411 030. Consequent to the said sale and transfer of management, the respondent employees have been reinstated by the said purchaser on 19.12.2015 and are continuously in service. Considering these facts, the services of the respondent are protected and remand of these revision petitions to the Industrial Court will not be a ground for dispensing with the services of the respondents. In the event, the parties are desirous of settling the dispute amicably, it would be open to them to do so, in the revision petitions before the Industrial Court.

16. These four revision petitions will be decided on their own merits as both the sides are at liberty to canvass all points in the said revision petition. In the event of any changed circumstances, either of the litigating sides may bring such developments to the notice of the Industrial Court, including addition of any party.

17. The respondents are litigating for the past about 16 years. Though the impugned judgment of the Industrial Court is dated 23.9.2013, the petitioner has preferred these petitions on 6.4.2013. They could have shown promptitude in challenging the impugned judgment so as to avoid rigours of litigation being caused to the respondents. It is also to be

noted that these respondents have been reinstated in service only about 3-4 weeks ago.

18. To soften the rigors of litigation being caused to the respondents, the petitioner shall deposit an amount of Rs.7,500/- as costs, awarded to each of the respondents, to be deposited before the Industrial Court on/or before the 20th day of February, 2016. Respondents shall withdraw the said costs without the conditions.

19. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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