

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11041 OF 2015

Vasant Anandrao Bramhane

..PETITIONER

VERSUS

Pravara Medical Trust

..RESPONDENT

....

Mr. P.V. Barde, Advocate for petitioner.

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 22nd FEBRUARY, 2016

ORAL ORDER :

1. The petitioner is aggrieved by the judgment and order dated 29.04.2011 delivered by the Labour Court in Complaint ULP No. 81/1988. The petitioner is also aggrieved by the judgment and order dated 16.06.2015 delivered by the Industrial Court in Revision ULP No. 48/2011.

2. I heard Mr. Barde learned Counsel for the petitioner at length. He has strenuously criticized both the impugned judgments.

3. His contention is that the petitioner had challenged his stigmatic termination before the Labour Court by filing a complaint. He had challenged the disciplinary proceedings by virtue of which he was dismissed from service on 15.02.1988. The Labour Court considered the challenge and eventually the respondent-management was required to conduct an enquiry before the Labour Court and proved the charges against the petitioner.

4. He however submits that the Labour Court arrived at a conclusion that the charges that were proved against the petitioner in the complaint, did not warrant the dismissal of his services. However, it was not pragmatic to keep the petitioner in employment and therefore the Labour Court concluded that the compensation could be quantified at Rs.2 lakhs in lieu of reinstatement and continuity in service.

5. He submits that in doing so, the Labour Court has committed two errors. Firstly that the petitioner's monthly salary was held to be Rs.450/-. In fact it was Rs.1100/- per month.

Secondly, the Labour Court has deducted an amount of Rs.50,000/- from the quantified compensation on the ground that the petitioner deserves to be punished for the misconduct that he has committed.

6. Mr. Barde therefore submits that the order of the Labour Court virtually amounts to double punishment, since on the one hand he has been punished by deduction of Rs.50,000/- and on the other hand he has not been granted reinstatement in service with continuity.

7. He further submits that the Industrial Court has committed the some error in dismissing the Revision ULP No. 48/2011 filed by the petitioner-employee. He therefore prays that the impugned judgment of the Industrial Court as well as the Labour Court be quashed and set aside and the petitioner deserves to be reinstated in service with continuity and full back wages.

8. I have considered the submissions of Mr. Barde and have gone through the petition paper book with his assistance.

9. The petitioner has worked with the respondent in between 1986-88. The charges against the petitioner have been established. The Labour Court has arrived at a finding on facts that the petitioner does not deserve to be retained in employment in the said back drop. I find that the petitioner having worked for only two years in employment, would not therefore amount to a mitigating factor even if it is assumed that past record of the petitioner is clean and unblemished (read *Bajaj Auto Ltd. Vs. Kalidas Devram Patil, 2000(2)BCR 630*).

10. The Labour Court has arrived at a conclusion that in the peculiar facts of the case and in the back drop of only two years of employment by the petitioner, the compensation could be quantified in lieu of reinstatement and continuity of service. The learned Apex Court has taken the view of quantifying compensation in the following four cases:-

- (i) *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub Division, Kota Vs. Mohanlal, 2013 LLR 1009,*
- (ii) *Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh, (2013) 5 SCC 136,*

- (iii) *BSNL Vs. Man Singh, (2012) 1 SCC 558,*
- (iv) *Jagbir Singh Vs. Haryana State Agriculture Marketing Board, (2009) 15 SCC 327.*

11. The learned Apex Court in the above referred four cases has concluded that short tenure of employment followed by a long spell of unemployment would not warrant reinstatement in the service. In the above four cases, it was concluded that an amount of Rs.30,000/- approximately could be a reasonable compensation. In the instant case, the Labour Court has concluded that as the petitioner has been litigating for a long time, the compensation amount could be of Rs.2,00,000/- and Rs.50,000/- could be deducted from the said amount as a punishment.

12. It cannot be ignored that the petitioner has worked for two years and now is out of employment for almost 28 years. No purpose would be served in reinstating him. The Labour Court has considered the peculiar facts of the case and has granted compensation of Rs.1,50,000/- to the petitioner.

13. Considering the above, I do not find that the conclusions drawn by the Labour Court could be termed as being perverse or erroneous. So also, as on date, the respondent-management has not challenged the judgment of the Labour Court as well as the judgment of the Industrial Court impugned in this petition.

14. In the light of the above, I do not find that the impugned judgment deserves any interference. The petition being devoid of merits, is therefore dismissed.

(RAVINDRA V. GHUGE, J.)