

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1161 OF 2016

Shailendra S/o Shamrao Bhavsar,
Age-46 years, Occu-Nil,
R/o 26/B, Hulesing Nagar,
Karvand Naka, Shirpur,
Tq.Shirpur, Dist.Dhule

-- PETITIONER

VERSUS

Priyadarshani Sahakari Sootgirni Ltd.,
Shirpur, Tq.Shirpur,
District - Dhule,
Through its Managing Director

-- RESPONDENT

Mr.S.V.Dankh with Mr.Parag Shahane, Advocate for the petitioner.
Mr.S.S.Patil, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 15/09/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner is aggrieved by the judgment and order dated 18/09/2015 by which Revision (ULP) No.12/2015 filed by the respondent u/s 44 of the MRTU and PULP Act, 1971 has been allowed and the judgment of the Labour Court dated 05/08/2015 allowing his Complaint (ULP) No.45/2012, has been quashed and set aside.

3. I have considered the strenuous submissions of the learned Advocates for the respective sides on 07/09/2016 and today and have gone through the petition paper book with their assistance.

4. After the learned Advocates were heard extensively on 07/09/2016, and after considering the facts of the case, I had expressed a view that the punishment of dismissal from service appears to be shockingly disproportionate to the gravity of the proved misconduct. The matter was adjourned to this date so as to enable the respondent/Management to take instructions.

5. Today, learned advocate for the respondent submits on instructions of the respondent/Officer, who is present in the Court, that the petitioner would be reinstated in service with continuity from the date of his termination, which is 10/10/2012. He would not be paid back wages. He would be kept away from the Account/Cash Section. His status of clerk would be maintained and the punishment of stoppage of 3 increments would be imposed upon him. Learned Advocate for the petitioner submits on instructions that the said proposal is acceptable subject to keeping open the promotional avenue in the event the petitioner is entitled to it.

6. In the light of the above, the impugned judgment of the Industrial Court dated 18/09/2015 and the judgment of the Labour Court dated 05/08/2015 is modified by consent and the same shall be replaced with the following order :-

- [a] Complaint (ULP) No.45/2012 is partly allowed by granting reinstatement with continuity of service from 10/10/2012 to the petitioner.
- [b] He shall be deprived of back wages from 10/10/2012 till 30/09/2016.
- [c] He would stand reinstated w.e.f. 01/10/2016.
- [d] He would be deprived of 3 (three) annual increments.
- [e] His status as a "Clerk" would be maintained while deploying him in any such department of the respondent/Organization, where his services as a "Clerk" could be utilized.
- [f] He shall be kept away from the Account/Cash Sections.
- [g] In the event, considering his past service and the misconduct proved against him, he is entitled to any promotion, the respondent would consider his case strictly under its rules and service conditions.
- [h] The petitioner shall be precluded from raising any issue with regard to his dismissal dated 10/10/2012.

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

(RAVINDRA V. GHUGE, J.)