

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

WRIT PETITION NO. 2294 OF 2016

Nathrao Ramrao Hodabe

..PETITIONER

VERSUS

Upa-Van Sanrakshak

..RESPONDENT

WITH

WRIT PETITION NO. 2296 OF 2016

Mohan Fakira Jadhav

..PETITIONER

VERSUS

Upa-Van Sanrakshak

..RESPONDENT

WITH

WRIT PETITION NO. 2298 OF 2016

Ankush Lalsingh Jadhav

..PETITIONER

VERSUS

Upa-Van Sanrakshak

..RESPONDENT

....

Mr. B.A. Dhengle, Advocate for petitioners.

Mr. D.R. Korde, AGP for respondent.

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 7th MARCH, 2016

ORDER :

1. On 1st March, 2016, when this Court heard the learned Counsel for the petitioner for quite some time, his submissions were recorded as under:

“1) In all these matters, the petitioners are challenging the judgment and order dated 7.10.2015 delivered by the Labour Court, Nanded, by which, Reference IDA Nos. 3 of 2011, 2 of 2011 and 1 of 2011 respectively have been answered in the negative.

2) I have heard Shri Dhengle, learned Advocate for the petitioners.

3) I find that on the one hand, the petitioners proved completion of 240 days in the continuous and uninterrupted service of the respondent prior to their termination. On the other hand, the respondent / management proved compliance of Section 25F and 25G of the Industrial Disputes Act, 1947. The retrenchment notice and the retrenchment compensation was refused to be accepted by the petitioners is the conclusion drawn by the Labour Court.

4) The learned Advocate for the petitioners was confronted as to whether the petitioners can make a statement that they were never offered the retrenchment notice / order and retrenchment compensation. Shri Dhengle submits that he would have to take instructions on this count.

5) S.O. to 7.3.2016 for passing orders.”

2. Today, Mr. Dhengle, learned Counsel for the petitioners submits that the petitioners make a statement that they were never served with the notice of termination. He has further contended that as there is no evidence of the retrenchment compensation having been offered to the petitioners, non compliance of Section 25F of the Industrial Disputes Act, 1947 is established. Despite the same, the Labour Court has not considered this aspect and has mechanically answered the reference in the negative.

3. He further submits that all the petitioners had stepped into the witness box and had claimed violation of Section 25F. He however concedes that the application for interim relief was rejected by the Labour Court. He therefore prays that the impugned award delivered by the Labour Court in all these three matters deserves to be quashed and set aside and the reference cases deserve to be remanded back to the Labour Court for fresh adjudication and for leading oral and documentary evidence.

4. I have considered the strenuous submissions of Mr. Dhengle.

5. It is not in dispute that all the three petitioners are identically situated. The respondent is the same department with whom the petitioners had worked. I have therefore taken up these three matters together for hearing.

6. It appears from the record available and the impugned award that the petitioners could establish continuous employment with the respondent from 01.07.1997 till 31.03.2004. In all, they could establish continuous service of six years and nine months.

7. It cannot be ignored that the petitioners have produced copies of the three cheques all dated 23.03.2004 which were purportedly served upon them by way of payment towards retrenchment compensation under Section 25F. Mr. Dhengle contends that these documents were produced by the respondent in the conciliation proceedings. Nevertheless, the documents would speak louder than words. All the three cheques are dated 23.03.2004 bearing nos. 930602, 930603 and 930604 for amounts of Rs.15,866/-, Rs.14,858/- and Rs.14,858/- respectively. The

letter of State Bank of Hyderabad, Branch at Jintur was also placed before the Labour Court wherein it was stated that since none of these cheques were deposited by these petitioners, they have not come up for clearance to the bank.

8. I have also find that the petitioners, though had denied the service of retrenchment notice, had not filed any notice for production of documents before the Labour Court in order to seek a direction to the respondent to produce the notice of retrenchment and all accompanying papers. Besides the oral statement of the petitioners before the Labour Court, it does not appear that they have taken efforts to seek production of such documents when the respondent had categorically come up with the case of these petitioners having worked temporarily for a short period and they having been retrenched by issuance of cheques towards payment of retrenchment compensation.

9. It also appears from the impugned judgment that the seniority list of the employees was also published on 15.03.2004

prior to the retrenchment of these petitioners. So also, after their retrenchment on 01.04.2004, an industrial dispute has been raised in 2011 and the matters have been referred to the Labour Court.

10. The documents which were placed before the Conciliation Officer as well as the Labour Court, would lead to a presumption that the respondent had taken the efforts of attempting to pay retrenchment compensation. The date on the cheques and the letter by the bank which were on record before the Labour Court are indicative of this fact.

11. In the light of the above, I do not find that the impugned awards could be termed as being perverse or erroneous so as to cause an interference. The petitions being devoid of merit, are therefore dismissed.

12. However, considering the fact that the retrenchment compensation cheques have not been credited to the accounts of the petitioners, the respondents will have to make the said

payments if not already paid, within a period of three months from today by issuing new cheques considering the fact situation as above. The petitioners are therefore at liberty to make a representation to the respondent along with a copy of this order and request for the payment of their retrenchment compensation.

(RAVINDRA V. GHUGE, J.)