

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9598 OF 2004

Maharashtra Secondary and Higher Secondary
Education Board & Anr.

.. Petitioners

V/s

Mahendra M. Deokar & Anr.

.. Respondents

Mr. Prashant Chavan with Mr. Kiran Gandhi and Mr. Nirav Shah i/b
Little & Co. for the petitioners.

Mr. Nitin Kulkarni for respondent no.1.

CORAM: D.H. WAGHELA, CJ.

DATE : 18th JULY 2016

ORAL JUDGMENT:

The Petitioners have approached this Court invoking Articles 226 and 227 of the Constitution of India for a writ of certiorari so as to quash the judgment and order dated 14th October 2004 of learned Member of the Industrial Court, Pune in Revision Application (ULP) No. 50 of 2004. That revision application had arisen from the original complaint of the respondent workman which Complaint No. 160 of 1996 was dismissed by the order dated 28th May 2004 of the 2nd Labour Court. In substance, the respondent workman was appointed as Assistant Programmer by order dated 22nd December 1994 on probation and for a period of one year. After

completion of one year, a chargesheet was issued to him on 1st February 1996 and then his services were terminated on 16th February 1996. He was ordered to be reinstated with back wages and continuity of service mainly on account of the fact that his services were terminated without conducting a regular departmental inquiry.

2. During the pendency of proceedings before this Court, the operation of the impugned order was stayed on 3rd May 2006. On the other hand, admittedly the respondent has not filed any application for recovery of back wages or for any amount by way of interim relief. Instead it is admitted by the respondent himself, who is personally present in the Court, by giving instructions to his learned counsel that he has been doing one or the other job and earning different amounts at different times, even as his family was maintained mainly on account of his wife being an employed person. On the other hand, the respondent has been offered reinstatement by the petitioners by a written order dated 1st August 2015.

3. Under the above circumstances, the only issue agitated for disposal of the present petition was in respect of the amount of back wages that the respondent should receive and as to when he should report from duty at which office for continuing his service on the original post without claiming any other benefits except continuity of service.

4. Learned counsel for the respondent having had the opportunity to take necessary instructions in respect of all the matters, he has submitted on instructions that the Court may fix any amount as back wages, in lumpsum or otherwise, which the petitioners should pay within one month of reinstatement of the respondent. Learned counsel for the petitioners fairly submitted that the amount, which the Court may fix by way of back wages, shall be paid without any further legal process by the petitioners to the respondent within a period of two months from the date on which he may be required to report for duty.

5. Accordingly, by consent and after considering the relevant facts and submissions, it is directed that the respondent shall report for duty at the Pune office of the petitioners to be reinstated on his original post with continuity of service and without back wages on 1st August 2016. Thereafter on or before 30th September 2016, the respondent shall be paid by petitioner no.1 the lumpsum amount of Rs.3,00,000/- by way of compensation and back wages. It is agreed and understood that the respondent shall be reinstated on the same post in the current scale of pay after counting his seniority on the basis of continuity of service since the year 1996 and he shall be entitled to all the incidental benefits for the period starting from his date of reinstatement. This will not be a precedent.

6. Accordingly the petition stands disposed in the aforesaid terms with no order as to costs.

(CHIEF JUSTICE)