

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 1716 OF 2015

Mr. Madhav Singh Samant.

... Petitioner.

V/s.

Union of India.

... Respondent.

Mr. Suresh Sabrat i/b. R.D. Suryawanshi for the Petitioner.

Mr. T.J. Pandian for the Respondent.

CORAM : N.M. JAMDAR, J.

DATE : 1 FEBRUARY, 2016.

P.C. :-

By this Petition the Petitioner challenges the order dated 26 August 2013 passed by the Central Government Industrial Tribunal, partly allowing the reference and directing the Respondent to pay compensation of Rs.1,00,000/- to the Petitioner.

2. The Petitioner was working as a bungalow peon on a temporary basis. He was terminated from service on the ground that he remained absent without taking prior permission. There was no advertisement pursuant to which the Petitioner appeared

for any interview. He was merely appointed on a recommendation of one officer. The Industrial Tribunal found that before terminating his services, the provisions of Section 25-F of the Industrial Disputes Act were not followed. The Tribunal, after noting that the termination of any breach of Section 25-F of the said Act, proceeded to grant compensation of Rs.1,00,000/-.

3. The learned Counsel for the Petitioner submitted that the Tribunal could not have gone beyond the terms of reference and even assuming it had power to do so, the grant of compensation of Rs.1,00,000/- is inadequate. The learned Counsel for the Respondent submitted that retrenchment compensation was sent to the Petitioner, however he refused to accept the same.

4. The appointment of the Petitioner was not as per the recruitment norms but because he had completed requisite 240 days, the Tribunal found that Section 25-F of the said Act was attracted. It is the settled law that in such a fact situation, reinstatement with full back wages in a public service, is not the norm and the Tribunal can always grant compensation. The Tribunal has noted the factum of back door entry of the Petitioner, pendency of the litigation, the amount received by the Petitioner and has arrived at compensation of Rs.1,00,000/-. There is no perversity in this approach and merely because higher compensation can be granted in Writ Jurisdiction, it is not a

ground for interference, if the discretion used to fix the amount is otherwise not perverse.

5. Therefore, there is no merit in this Petition. The Petition is accordingly rejected.

(N.M. JAMDAR, J.)