

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE**

WRIT PETITION NO.1195 OF 2007

Nazir Khan Sherkhan	...	Petitioner
Versus		
The Metal Printers	...	Respondent

.....

Ms. Karuna Yadav i/b Mr. N.M. Ganguli for the Petitioner.
None for the Respondent.

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CORAM : S.C.GUPTE, J.

DATE : 15 JULY 2016.

P.C. :

. Learned Counsel for the Petitioner tenders an affidavit of service in proof of service of Rule on the Respondent's Advocate. None appears for the Respondent. Even on the last occasion, none had appeared for the Respondent.

2 Heard learned Counsel for the Petitioner. The Respondent is absent despite notice.

3 The Petition challenges an order of the Industrial Court dated 19 June 2006 on the Petitioner's Complaint under Section 28 read with Item 9 of Schedule IV of the M.R.T.U. & P.U.L.P. Act 1971. The grievance of the Petitioner in the complaint was that inspite of an award by the Labour Court in a reference made to it in pursuance of a notice of demand by the Petitioner, the Petitioner was not reinstated nor his back wages were paid.

It is an admitted position that there is an award of the Labour Court directing the reinstatement of the Petitioner with full back wages and continuity of service. This award has not been stayed by any Court. Despite this position, the Petitioner has neither been reinstated nor have back wages been paid to him. In the Petitioner's complaint filed in the premises, the Industrial court whilst directing payment of arrears of back wages, has refused to order reinstatement. The Petitioner has led evidence before the Industrial Court that he had tried to report for duty in pursuance of the award, but the Respondent refused to take him back in service. The Petitioner has explained in his cross examination how despite letters sent to him earlier, when he reported for duty, he was asked not to report on the ground that the Respondent intended to move the Supreme Court for interim relief, which was refused by this Court in the pending Writ Petition. It is also pertinent to note that in its evidence, the Respondent actually offered to reinstate the Petitioner and allowed to him report for duty even if he were to report on the very next day.

4 In the face of this evidence, and the offer of the Respondent to allow the Petitioner to report on duty, the Industrial court was bound to direct reinstatement of the Petitioner in pursuance of the award. In the premises, the impugned order cannot be sustained. Rule is accordingly made absolute and the Respondent is directed to reinstate the Petitioner within four weeks from today. Needless to add, the Respondent must pay all the arrears of back wages upto date in accordance with the impugned award of the Labour Court.

(S.C.GUPTE, J.)