

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1612/2015

(The President, Local School Managing Committee and another vs. Sau.Geeta
w/o Suresh Doye)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

.....
Mr. M.V. Joshi, Advocate for petitioners
Mr.R.A.Gupte, Adv. for Respondent

CORAM : A.S.CHANDURKAR, J.

DATED : 25th October, 2016.

Heard.

The challenge in the present Writ Petition is to award dated 1.11.2014 passed by the learned Judge of the Labour Court whereby, while answering the reference made under Section 10 of the Industrial Disputes Act 1947, the petitioners have been directed to pay compensation of Rs. 30,000/- to the respondent, in lieu of reinstatement.

It is the case of the respondent that she was appointed as a Cook in the school run by the petitioner no.1-Management. Since the year 1994 the respondent was discharging her duties. In the month of November, 2009 she could not attend her duties and when sought to report back for duties in January 2010, she was not permitted to do so. On this basis, the respondent raised a dispute and made a claim for reinstatement with back wages. The petitioners though noticed, did not appear before the Labour Court and did not cross-examine the respondent. The learned Judge of the Labour Court after considering the material on record, held that there was breach of provisions of Section 25F of the said Act. However, instead of granting the relief of reinstatement, the petitioners were directed to pay compensation of Rs. 30,000/-.

Mr.M. V. Joshi, h/for Mr P.S. Wathore, learned counsel for the petitioners submitted that the respondent had remained absent on her own accord and without any intimation. She had consented for a fresh appointment being made on the post held by her and, therefore, no relief could have been granted to the respondent. He referred to the notice dated 11.11.2009 issued by the petitioners calling upon her to rejoin her duties and he submitted that there was no response from the respondent to the said notice. In support of his submissions, he placed reliance upon the judgment of the Gujarat High Court reported in GLH 2004 Page 12.

Shri R.A.Gupte, the leaned counsel for the respondent supported the impugned order. According to him, as the petitioners neither filed any reply before the Labour Court nor did they cross-examine the respondent, they were precluded from raising any new defence for the first time before this Court. According to him, the service of notice dated 11.11.2009 was not duly proved and, therefore, the conclusion arrived at by the Labour Court cannot be faulted.

Having heard the respective counsel and having perused the material on record, I do not find that any case has been made out warranting interference. It is not in dispute that the petitioners did not contest the proceedings before the Labour Court nor did they lead any evidence in that regard. The respondent also was not cross-examined. In these facts, therefore, the findings recorded by the Labour Court cannot be assailed. The conclusion that there was contravention of provisions of Section 25F of the said Act is, therefore, justified. The decision relied upon by the learned counsel for the petitioners is clearly distinguishable, on facts.

In view of the aforesaid and in the absence of any jurisdictional error, no case has been made out warranting interference. The writ

Petition is dismissed, with no order as to costs.

The amount of Rs. 30,000/- shall be paid by the petitioners to the respondent within two months from today, failing which the said amount shall carry an interest at the rate of 6 percent *per annum*.

JUDGE

salare