

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

WRIT PETITION NO.3784 OF 2014

(PRAKASH DAULATRAO DESHMUKH...VS..MANAGING DIRECTOR, MS SEEDS CORPN.)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : JANUARY 22, 2016.

Heard Shri R.D.Bhuibhar, advocate for the
petitioner. None appears for the respondents.

The petitioner-employee had filed complaint before the Labour Court challenging the order dismissing him from service. The Labour Court by order dated 29th November, 2003 allowed the complaint filed by the petitioner, set aside the order of dismissal, directed the respondent to reinstate the petitioner as driver and granted 50% back wages. The respondent-employer being aggrieved by the order passed by the Labour Court had filed revision before the Industrial Court. The petitioner had also filed revision before the Industrial Court challenging the rejection of claim for 100% back wages. The Industrial Court by common order dismissed the revision filed by the petitioner and partly allowed the revision filed by the respondent/ employer. The Industrial Court maintained the directions given to the respondent to reinstate the petitioner, however, the order granting 50% back wages to the petitioner came to be set aside. The petitioner being aggrieved by this part of the order passed by the Industrial Court has filed this writ petition.

With the assistance of the learned advocate for the petitioner, I have examined the documents filed on the record of the petition. The petitioner has not been able to point out that he pleaded before the Labour Court or even before the Industrial Court that he was not gainfully employed during the period he was not in service with the respondent.

Shri Bhuibhar, learned advocate for the petitioner has pointed out from the affidavit dated 7th October, 1998 filed by the petitioner before the Labour Court that in the preamble to the affidavit it was shown that the petitioner is not doing any job as the occupation is shown to be 'Nil'. It is submitted that the Labour Court had rightly relied on it while considering the claim of the petitioner for back-wages. The submission made on behalf of the petitioner cannot be accepted. Apart from the fact that it cannot be said to be the pleading to support the claim for back-wages, the preamble of the affidavit is not part of the submissions made on oath and it cannot be said that the preamble is supported by the affidavit. In the circumstances, the respondent is not expected to counter the claim of the petitioner that he was gainfully employed or not.

I find no infirmity in the impugned order passed by the Industrial Court. I see no reason to interfere with it.

The petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE