

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

WRIT PETITION NO.5910/2014

Maharashtra State Mining Corporation Ltd., through its Managing Director

..Versus..

Shri Ramesh Raghunath Pohane and others

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.

DATE : 25.1.2016

Heard Shri C.V. Kale, advocate for the petitioner - employer
and Shri S.D. Thakur, advocate for respondent no.1 - employee.

The departmental enquiry was conducted against the respondent no.1 - employee on charges that the employee had committed fraud by submitting the false and fraudulent claims of over time allowance and had manipulated for delivery for dishonest and fraudulent sale of one truck load of valuable minerals. The enquiry report showed that the charges levelled against the employee were proved. The employee filed complaint before the Labour Court in which preliminary order was passed on 24th November, 2008 holding that the employer failed to prove that the enquiry conducted against the employee was legal, fair, just and proper. The employer

challenged the preliminary order before the Industrial Court in Revision No.55/2009. The Industrial Court had not stayed the proceedings before the Labour Court and the revision continued to pend.

According to the learned advocate for the respondent no.1 - employee, the employer had not even sought any interim order in the revision application.

The Labour Court proceeded with the complaint and by the order dated 27th July, 2010 allowed the complaint and as the employee had retired having attained the age of superannuation, the Labour Court directed the employer to pay 60% of back wages.

In view of the decision of Complaint U.L.P. No.1004/1990 the Revision Application No.55/1990 is disposed of as infructuous.

The employer being aggrieved by the order passed by the Labour Court on 27th July, 2010, filed Revision U.L.P. No.266/2010 which is decided on 4th April, 2014. The Industrial Court has directed the employer to pay 50% of back wages to the employee.

The employer being aggrieved by the above orders, has filed this writ petition.

The point which arises for consideration in the facts is :

Whether it was proper on the part of the Labour

Court to decide the complaint filed by the employee even if the Industrial Court had not stayed the proceedings and no interim orders were passed in Revision Application No.55/2009 ?

Shri Thakur, learned advocate for the respondent no.1 - employee has submitted that the Labour Court has not committed any error by deciding the complaint filed by the employee as the petitioner - employer has not taken any steps either to get the Revision Application No.55/2009 decided or to obtain any interim orders in that revision application. It is further submitted that the employee had attained the age of superannuation and the matter was pending for many years and, therefore, the Labour Court has rightly proceeded in the matter, considering the facts of the case and the conduct of the employer.

In my view, the matter requires consideration.

RULE.

The submissions made on behalf of the respondent no.1 - employee will be considered at the time of hearing of the petition.

During the pendency of the petition, there shall be stay to the effect, operation and execution of the impugned orders on condition

that the petitioners shall deposit the amount as per the order passed by the Industrial Court with the Registry of this Court till 15th April, 2016. If the amount is not deposited within time, the interim order shall stand vacated without reference to the Court. If the amount is deposited, it shall be kept in fixed deposit in any nationalized bank.

Shri S.D. Thakur, advocate waives notice for respondent no.1.

Shri K.R. Lule, A.G.P. waives notice for respondents 2 and 3.

C.A.W. NO.3271/2014.

The application for dispensing with the filing of true translation of document mentioned in it is allowed on condition that the same shall be filed as and when required by the Court.

JUDGE

Tambaskar.