

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3136 OF 2000
(M/s Purushottam Bhikan and Co. Vs. Murlidhar Gobaji Takale)

Mr.A.G.Talhar, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 08/05/2017

PER COURT :

1. The petitioner /establishment, which runs a Cloth Store is aggrieved by the judgment of the Labour Court dated 13/10/1999 by which Ref.(IDA) No.15/1998 has been partly allowed with the following order :-

“ ORDER

1. The reference is partly answered in the affirmative.
2. Oral termination dtd. 15.11.1996 at the hands of 1st party is hereby set aside being illegal and unjustified.
3. 1st party employer is hereby directed to pay Rs.15,000/- in lump-sum compensation in lieu of reinstatement and also to pay all terminal dues to the 2nd party workman within 30 days from the date of publication of this award.
4. Prayer of reinstatement is rejected as given up by 2nd party.
5. No order as to costs.”

2. This petition was admitted on 23/08/2000 and interim relief was refused.

3. Learned Advocate Mr.Talhar appearing on behalf of the petitioner/Establishment does not have instructions as to whether the directions to pay Rs.15,000/- in lump-sum compensation in lieu of re-instatement and additional terminal dues are complied with or not.

4. Office remark indicates that the petitioner has not taken steps for serving the respondent.

5. Rather than dismissing the petition in default, I have heard the learned Advocate for the petitioner.

6. Mr.Talhar has strenuously criticized the impugned award. Submission is that there was no evidence before the Labour Court and hence the impugned award cannot be sustained. He, however, submits that the respondent/employee has not challenged the award of the Labour Court by which he was refused reinstatement.

7. I find from the impugned award that the Labour Court has

concluded on the basis of oral and documentary evidence that the respondent had worked with the petitioner in the said shop. The petitioner shop was an establishment registered under the Bombay Shops and Establishments Act. While terminating the service of the respondent after completing 240 days in continuous employment, the law of retrenchment u/s 25-F of the Industrial Disputes Act, 1947 was not complied with. The attendance card, receipts of payments and the documents placed on record indicated that the respondent had worked with the petitioner and had completed 240 days in employment in a calendar year in between 01/11/1977 and 15/11/1996. His last drawn wages were Rs.1250/- per month.

8. Considering the above, I do not find that the Labour Court has committed any error in concluding that the impugned oral termination was unsustainable and illegal.

9. Since the Labour Court has refused reinstatement to the respondent and as the respondent has not challenged the said refusal, I am not required to go into this aspect. So also, the respondent has not challenged the grant of Rs.15,000/- as lump-sum compensation in lieu of reinstatement alongwith terminal benefits. Terminal benefits would necessarily mean gratuity for the period

from 01/11/1977 to 15/11/1996 to be calculated on the basis of the monthly wages of Rs.1,250/-.

10. In the light of the above, I do not find that the impugned award could be termed as being perverse or erroneous. This petition is, therefore, dismissed and Rule is discharged.

11. In order to meet the ends of justice, I am directing the petitioner to pay the compensation amount of Rs.15,000/- alongwith the gratuity amount, as observed above, within a period of 8 (eight) weeks from today, if not already paid, failing which the total amount shall attract interest @ 6% p.a. from the date of the award 13/10/1990.

(Ravindra V.Ghuge, J.)