

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5339 OF 2015
(Subhash Devram Nirgude Vs.Kopargaon Sahakari Sakhar Karkhana
Ltd.,)

Mr.P.V.Barde, Advocate for the petitioner.

Mr.Mobin Shaikh h/f Mr.V.R.Dhorde, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 14/02/2017

PER COURT :

1. I had heard the learned Advocate for the petitioner and the learned Senior Advocate for the respondent at length on 03/02/2017. Considering that the petitioner was dismissed from service by way of punishment for remaining unauthorizedly absent for 36 days coupled with 3 warnings in his past service of about 13 years, I expressed a view that the punishment of dismissal would amount to being a shockingly disproportionate punishment. Learned Advocates for the respective sides sought time to take instructions whether this dispute could be resolved amicably.

2. The petitioner is present in the Court today. Learned Advocate for the respondent submits on instructions that since the provident fund accumulations have already been paid and the Establishment has been permanently closed down on 11/02/2003, the closure benefits in

the form of retrenchment compensation and gratuity as on 11/02/2003 would be paid to the petitioner. Learned Advocate for the petitioner submits on instructions that the petitioner is agreeable.

3. In the light of the above, this petition is partly allowed by converting the dismissal of the petitioner into discharge w.e.f. 11/02/2003. The respondent shall pay gratuity as per the last drawn wages of the comparable workers as in January 2003 for the period from the date of joining till 11/02/2003 and retrenchment compensation u/s 25-F of the I.D.Act for the same period. These amounts shall be paid together within a period of 6 (six) weeks from today, failing which the respondent shall also pay interest @ 6% on the entire amount from February 2003 till it is actually paid.

4. Needless to state, with the above directions, the petitioner would be precluded from raising a dispute about his removal from service as it is converted into discharge and would be further precluded from raising any grievance with regard to any claim arising out of his employment and/or his non-employment before any Court, Tribunal or Authority under any Law.

(RAVINDRA V. GHUGE, J.)