

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5057 OF 2002
WITH
CIVIL APPLICATION NO.14718 OF 2015
IN
WRIT PETITION NO.5057 OF 2002

Cock Brand Sinnar Beedi Private
Limited, Dal Mandai,
Ahmednagar,
District Ahmednagar.

...PETITIONER

-VERSUS-

Gangaram Kishan Raskonda,
Resident of Behind Balikashram,
N.Gandhulwada, Ahmednagar.

...RESPONDENT

...

Advocate for Petitioner : Shri B B Yenge.

Advocate for Respondent : Smt.Renuka Ghule.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th February, 2017

Oral Judgment :

1 The Petitioner/ Management is aggrieved by the award dated 16.03.2002 by which Reference (IDA) No.91/1991 was partly allowed and the Respondent/ Employee was granted a lump-sum compensation of Rs.35,000/- along with interest at the rate of 12% from the date of the

award, in lieu of all his rights arising out of his employment and non-employment.

2 This petition was admitted by this Court on 26.11.2002 by directing the Petitioner to deposit the amount of Rs.35,000/-. The said amount has been promptly deposited by the Petitioner/ Management on 08.01.2003 in this Court. The same has been invested in the Fixed Deposit Receipt.

3 Shri Yenge, learned Advocate for the Petitioner, has strenuously criticized the impugned award. He submits that unless the case of the Respondent was established and illegal retrenchment was proved, no relief could have been granted to the Respondent. In the absence of any evidence, the Labour Court could not have shown misplaced sympathy towards the Respondent. So also, unless the Labour Court concluded that the Respondent deserves to be reinstated in service, it could not have quantified the compensation in lieu of reinstatement, continuity and back wages.

4 He further submits that merely because 16 employees including the Petitioner were charge sheeted in 1981 and only because the Petitioner/ Management settled the dispute with 15 employees in Writ

Petition No.4208/1988, it does not mean that the same relief or benefit should be granted to this Respondent, who has independently started litigation against the Petitioner after eight years.

5 Mrs.Ghule, learned Advocate for the Respondent, has supported the impugned award. She submits that the Respondent was not included in the litigation initiated by the other 15 workers. Had he realized about the stakes involved in the litigation, he would have also participated along with them. It is unfortunate that he had to litigate alone. After he came to know that the Petitioner had settled the dispute with 15 workers before this Court, he was left with no option but to raise an industrial dispute.

6 I have considered the submissions of the learned Advocates for the respective sides.

7 Before the Labour Court, the learned Advocate for the Petitioner/ first party/ Management stated that the Management has no objection to dispose of the reference finally by taking into consideration the back wages awarded by this Court to the other 15 employees. The request of the Petitioner/ Management was specifically recorded in paragraph 13 of the impugned award which reads as under:-

"13. *Mr.D.V.Changede, Ld. Counsel for the respondent submitted that the first party has no objection to dispose of the reference finally taking into the consideration the backwages awarded by the Hon'ble High Court. To my mind, also the Union has compromised the matter so far as the 15 employees are concerned, the same can be considered even in respect of the second party, but with some modification considering the laps of years. As there are sufficient reasons for condonation of delay, I found that each of the employee roughly was paid Rs.25,000/-. In my opinion that, lum-sum payment of Rs.35,000/- to the second party will meet the ends of the justice. I have taken into consideration that the compromise took place some where in the year 1989. So, after laps of the several years this consolidated amount in lieu of reinstatement and other claim of the second party will meet the ends of the justice. I, therefore, answer issues No.2 & No.3 accordingly. I hereby direct to first party to pay a lum-sum amount of Rs.35,000/- to the second party.*"

8 Considering the above and keeping in view the law laid down by the Honourable Supreme Court in the matters of *Syed Yakoob v/s K.S.Radhakrishnan*, **AIR 1964 SC 477** and *Surya Dev Rai v/s Ram Chander Rai*, **AIR 2003 SC 3044**, I do not find that the impugned award could be termed as being perverse or erroneous or likely to cause gross injustice to the Petitioner.

9 Considering the fact that the amount of Rs.35,000/- has been promptly deposited by the Petitioner in this Court and the fact that the other employees were granted Rs.25,000/- compensation in 1988, I deem

it proper proper to set aside the grant of 12% interest on the amount of Rs.35,000/-. However, the Respondent is entitled for the interest generated on the amount of Rs.35,000/- deposited in this Court.

10 In the light of the above, this Writ Petition is partly allowed. The direction of the Labour Court to the extent of grant of interest at the rate of 12%, is set aside. Rest of the impugned award stands sustained.

11 The Respondent/ workman would be at liberty to withdraw the amount of Rs.35,000/- (Rupees Thirty Five Thousand) along with accrued interest from this Court by tendering an application duly identified by the learned Advocate with tangible evidence of his address proof, copy of the Election Commission's Voters Identity Card and recent photograph.

12 Rule is made partly absolute in the above terms.

13 The pending Civil Application does not survive and stands disposed of.