

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4294 OF 2015
(Machindra Kundlik Adhav, through LR's Vs.Trinity Forge Private Limited)

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

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 01/02/2017

PER COURT :

1. The petitioners are aggrieved by the award dated 07/10/2014 by which Ref.(IDA) No.18/2008 has been answered in the negative by the Labour Court.
2. The petitioner had joined service with the respondent on 01/12/1978. On 01/08/1994, he was terminated from service. A demand notice was issued on 30/04/2007 and the matter was referred to the Labour Court in 2008.
3. The petitioner has stated in his statement of claim before the Labour Court that the defence raised by the respondent before the Conciliation Officer that he had resigned on 11/02/1998 is false. He was terminated on 01/08/1994. Reinstatement deserves to be granted with continuity and full back wages w.e.f. 01/08/1994.

4. The respondent had filed a written statement Exhibit C-2. It is denied that the petitioner was terminated on 01/08/1994. On 13/02/1993, there was a dacoity in village Adhavwadi and the petitioner went missing. On 11/02/1998, he approached the Management, tendered a resignation and was relieved from service. In between the said period from 1993 till 10/02/1998, the petitioner had kept no contact with the respondent. After accepting his resignation, all the legal dues were paid to him.

5. It appears from the award that Exhibit C-17 and C-18 are the receipts of legal dues having been paid to the petitioner. Since he stopped reporting for duties from 01/08/1994, his name is not seen on the muster roll. It was also brought on record that the petitioner was in jail for 5 years in the dacoity cases, due to conviction. After he was released in 1997, he had approached the employer.

6. In his cross-examination, he admitted that the letter Exhibit C-8 is a resignation in his own handwriting. He admitted that he had collected all his legal dues and also admitted his handwriting, signature and the envelope. In the above backdrop, the Labour Court concluded that the petitioner has failed to establish unlawful termination on 01/08/1994 and the Management proved his resignation dated 11/02/1998 and the payment of all legal dues.

7. The record which came up before the Labour Court also indicates that the petitioner was charged with other persons in the dacoity case with murder and dacoity. The petitioner was sentenced to imprisonment for 5 years. All these facts were suppressed from the statement of claim.

8. Considering the above, I do not find that the impugned award could be termed as being perverse erroneous. This petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)