

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10727 OF 2016

The State of Maharashtra,
Through the Deputy Forest Officer,
Forest Division, Near Gandhi Statue,
Nanded

-- PETITIONER

VERSUS

Marathwada Sarva Shramik Sanghtana,
Registered No.AWB-121, Trade Union Centre,
Mahaveer Nagar, Nanded,
Through its Assistant Secretary
Panchal Bapurao Keshavrao,
Age-64 years, Occu-Social Service,
R/o as above...

-- RESPONDENT

WITH
WRIT PETITION NO.12557 OF 2016

Marathwada Sarva Shramik Sanghtana,
Registered No.AWB-121, Trade Union Centre,
Mahaveer Nagar, Nanded,
Through its Secretary,
Bapurao S/o Keshavrao Panchal,
Age-65 years, Occu-Social Service,
R/o Mahavir Nagar, Nanded,
Dist.Nanded

-- PETITIONER

VERSUS

The Deputy Forest Officer,
Forest Division, Near Gandhi Statue,
Nanded, Tq. and Dist.Nanded
Mrs.S.S.Raut, AGP for the petitioner/State.
Mr.A.S.Shelke, Advocate for the respondent.

-- RESPONDENT

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 14/02/2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner in the first petition and the Union in the second petition are before this Court. The Union has espoused the cause of 12 workers by filing Complaint (ULP) No.13/2006. Same has been dismissed by the impugned judgment dated 31/01/2014. The revision petition filed by the Union was partly allowed by the impugned judgment dated 06/07/2015, by which compensation in lieu of reinstatement has been granted to the employees at issue.

3. From the record, it reveals that these workers were served with the retrenchment order dated 31/03/2005 on 04/04/2006 alongwith the demand drafts containing retrenchment compensation amounts. As such, the order of retrenchment was given effect to only on 04/04/2006.

4. Grievance of the Union is that though they were shown to be seniors in the seniority list dated 31/12/1993, juniors have been retained in service. It, therefore, appears that after having put in 14

to 27 years in employment by the 12 employees concerned, they have been retrenched purportedly by disregarding their seniority. The Establishment is also challenging the order of the Industrial Court dated 25/08/2015 rejecting its miscellaneous application for restoration of the revision petition.

5. I have heard the submissions of the learned Advocates for quite some time.

6. Mr.Shelke strenuously submits that all the grounds raised in the Revision (ULP) No.53/2014 have not been properly considered by the Industrial Court. The law regarding Section 25-G of the I.D.Act r/w Rule 81 of the Industrial Disputes (Bombay) Rules, 1957 has not been considered. After putting in services in between 14 to 27 years, the concerned workmen should have been reinstated in service with continuity and full back wages. Even if compensation was to be granted, the law laid down in the matter of O.P.Bhandari Vs.Indian Tourism Development Corpn.Ltd., and others, (1986) 4 SCC 337 should have been followed by the Industrial Court.

7. Grievance of the Establishment is that the judgment of the Industrial Court dated 06/07/2015 is ex-parte as the Establishment

did not appear in the matter despite service. The miscellaneous application filed by the Establishment was rejected by the impugned order dated 25/08/2015. The Industrial Court could have imposed costs and should have restored the revision petition so as to ensure that the litigating sides get an equal opportunity in addressing the mind of the Industrial Court.

8. Considering the above, it is apparent that both the sides are aggrieved by the judgment of the Industrial Court dated 06/07/2015. The Union prays for continuity in service with back wages keeping in view that it filed a *purshis* before the Industrial Court indicating that these 12 workmen involved have attained the age of superannuation. The Establishment desires a hearing on the revision petition as it did not appear despite service of Court notice.

9. In my view, considering the above aspects, ends of justice would be met by partly allowing these petitions filed by the Establishment as well as the Union and remit Revision (ULP) No.53/2014 for a rehearing and for considering the entire record and proceedings of the Labour Court. Considering that the Establishment was negligent in not participating in the proceedings before the Industrial Court, costs need to be imposed.

10. In the light of the above, both these petitions are partly allowed. The impugned judgment of the Industrial Court dated 06/07/2015 is quashed and set aside and Revision (ULP) No.53/2014 stands remitted to the Industrial Court, Jalna on the following conditions :-

[a] Both the litigating sides shall appear before the Industrial Court on 04/03/2017. Formal notices need not be issued.

[b] The petitioner/Establishment, which is the State of Maharashtra, through the Deputy Forest Officer, Nanded shall deposit an amount of Rs.24,000/- (Rs.Twenty Four thousand only) before the Industrial Court within 3 (three) weeks from the date of appearance.

[c] The 12 workmen involved shall withdraw Rs.2,000/- each from the said costs without conditions.

[d] Record and proceedings in Complaint (ULP) No.13/2006 shall be called for from the Labour Court, Nanded.

[e] The Industrial Court shall consider the pleadings of the parties and decide the revision petition on its own merits by considering the record and proceedings of the Labour Court.

[f] All the contentions of the litigating sides are kept open including the prayer of the Union that costs may be quantified considering that the 12 workers have attained the age of superannuation.

[g] Consequentially, the order dated 25/08/2015 passed by the Industrial Court is set aside and Misc.(ULP) no.1/2015 stands disposed of.

[h] The Industrial Court shall endeavour to decide the revision

petition expeditiously.

11. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)