

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12065 OF 2015

VAIDYANATH SAHAKARI SAKHAR KARKHANA, PANGRI, TQ.
PARALI VAIJINATH, DISTRICT BEED

VERSUS

RAJU GOVIND ZANJAD AND OTHERS

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Advocate for Petitioner : Mr.Patil Bankar Deelip N.
Mr.Nangare Prashant R., Adv., for respondent no.2.
Mr.Barde Parag Vijay, Adv., for respondent no.1

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CORAM : P.R. BORA, J.
Dated: April 19, 2017

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PER COURT :-

1. By filing the present petition, the petitioner has challenged order dated 6th February, 2014, passed by the second Labour Court at Ahmednagar, in Complaint (ULP) No.57 of 2006, whereby the petitioner was directed to reinstate the present respondent employee with effect from 5.11.2006 with benefits of continuity of service and 25 per cent backwages from 5.11.2006 till reinstatement.

2. The aforesaid order was challenged by the present petitioner by filing Revision (ULP) No.28/2014 before the Industrial Court at Ahmednagar, however, the revision application was dismissed by the Industrial Court vide order

passed on 21st August, 2015. The petitioner has, thus, challenged both the aforesaid orders in the present petition.

3. It is the contention of the petitioner that it had taken the sugar factory on lease for a certain period. It is the further contention of the petitioner that the respondent, after the petitioner had taken over the factory on lease, did not register his name and hence there was no question of providing any work to him. It is the further contention of the petitioner that the Labour Court, as well as the Industrial Court, have failed in considering the aforesaid aspect and on some incomplete evidence passed an order directing reinstatement of the present respondent employee and also directing the petitioner to pay 25 per cent wages of the intervening period.

4. The contention so raised is strongly opposed by the respondent employee. Shri P.V.Barde, learned Counsel appearing for respondent employee, submitted that respondent was a permanent employee and there was no question of again registering his name with the petitioner. Learned Counsel submits that the services of the respondent were illegally terminated by the petitioner. Learned Counsel submits that the Labour Court, after having considered the entire evidence

brought on record, has passed the impugned order which does not require any interference. Learned Counsel further submits that, in fact, the respondent was aggrieved by the order passed by the Labour Court whereby only 25 per cent backwages have been provided to the respondent and has, therefore, challenged the said order by filing Revision (ULP). Learned Counsel further submits that the petitioner had also challenged the said order by filing revision application and the Industrial Court did not cause interference in the order passed by the Labour Court and has maintained the finding recorded by the Labour Court.

5. After having heard the arguments of the learned Counsel appearing for the respective parties and on perusal of the entire material on record, it appears to me that in so far as the order of reinstatement is concerned, it may not be executed now against the present petitioner since the period of lease is already over. The only part of the impugned order which can be executed against the present petitioner is award of 25 per cent backwages. On considering the evidence on record, it appears that there is no concrete evidence as about the work performed by the present respondent in the past. Similarly, no such conclusion can also be drawn on the basis of the evidence on record that the respondent was required to register his

name afresh and that was the reason that the petitioner did not provide work to the respondent. Leaving apart all these facts, it appears to me that the present petition can be disposed of by directing the petitioner sugar factory to pay to the respondent a lump sum amount in lieu of 25% backwages as awarded by the Labour Court.

6. Shri Barde, learned Counsel appearing for the respondent employee submits that as per the order passed by the Labour Court, if the amount of 25 per cent of the backwages is determined, it comes to around Rs.37,000/- (Rs. thirty seven thousand). The calculations are disputed by the learned Counsel appearing for the petitioner. It appears to me that there is no propriety in making any elaborate discussion on the point and in making exact calculations of the amount backwages. Having regard to the fact that there was some entitlement accrued in favour of the respondent employee, I deem it appropriate to direct the petitioner to pay a sum of Rs.20,000/- (Rs. twenty thousand), within a period of three months, to the respondent employee. Having regard to the peculiar facts of the present case, the lumpsum amount is directed to be paid in this matter, however, the present decision shall not be used as a precedent in other matters. If

such an amount is paid, the learned Counsel for the respondent employee agrees that nothing remains to be executed in pursuance of the impugned order against the petitioner factory. It would, however, be open for the respondent to get executed remaining order in accordance with law. The impugned order to the extent of the petitioner factory stands set aside. In so far as petitioner factory is concerned, after payment of the amount of Rs.20,000/- by way of backwages, nothing would remain to be executed against the petitioner factory by the respondent.

With the observations as above, the writ petition stands disposed of.

(P.R. BORA)
JUDGE
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