IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.646 OF 2017

M/s Babasheth & Company .. Petitioner

vs

Bajirao Yashwant Patil .. Respondent

Mr.S.R.Ganbavale for Petitioner
Mr.Manoj Patil for Respondent

CORAM : PRASANNA B.VARALE, J
DATE : 7 AUGUST 2017.

P. C.

1. Heard the learned counsel for the Petitioner and learned counsel appearing for the Respondent.

2. By the present Petition, the Petitioner challenges the Judgment and order passed by the learned Presiding Officer and Judge, Labour Court No.1. Kolhapur in Reference (IDA) No.13 of 2013. As the issue involved in the present Petition is a very limited one with consent of the parties, the Petition is heard for its Final disposal at the stage of admission.

3. The Respondent approached the learned Labour Court by

Reference (IDA) No.13 of 2013. Grievance of the Respondent was that the Respondent-2nd party before the Labour Court was working as a clerk with the Petitioner-Firm from the year 1.4.2003 and was earning salary at the rate of Rs.6000/- p.m. The service record of the Respondent-2nd party was clean and unblemished. Grievance of the Respondent-2nd party was that the Petitioner i.e. Ist party restrained the Respondent from working on 30.4.2012 in his regular course of attending work. It was submitted that the proprietor of the firm Shri. Shrikant Kokate and Shri.Sagar Kokate restrained the Respondent from working and orally asked the Respondent that his services are not required. Inspite of conciliation attempts, there was no fruitful outcome and as such the parties were before the learned Labour Court.

4. Submission of the Respondent was that though he was entitled for all the legal entitlements as a permanent employee, his oral termination was clearly in breach of the provisions of law. The proceedings were opposed by the Petitioner by filing their statement of claim. The contentions were simply denied. The learned Court below framed points for consideration namely whether the oral

termination dated 30.4.2012 was just and proper and whether the same was sustainable. Second point framed for consideration was whether the Respondent was entitled for compensation considering his backwages and continuity in service.

5. The learned labour Court on hearing the parties and on appreciation of evidence in the nature of documentary evidence as well as oral evidence found no favour with the Petitioner i.e. the firm. Though it was submitted before the Court below that there was no oral termination of the Respondent and though it was submitted that the Respondent was not a permanent employee of the Petitioner, the learned Court below on a perusal of the documentary evidence in the nature of salary certificates,attendance sheets and testimony of the witness namely one Shri.Sagar Kokate found that the defence raised by the Petitioner was just vague and un-supported by any material. The learned Court below arrived at the conclusion that the defence raised was nothing but, false and imaginary defence. The learned Court below further found that the Respondent was not gainfully employed though there was an attempt made to submit before the learned lower Court that the

Respondent was gainfully employed. The Petitioner could not place on record any material to support the submission that the Respondent was gainfully employed at the relevant time.

6. Considering all these aspects, the learned lower Court found that the Respondent was entitled for compensation on the ground that there could not have been re-instatement of the Respondent in service. Considering the continuity of service of Respondent on his salary at the relevant time earned by him and other consequential benefits, the learned Labour Court fixed the compensation at the rate of Rs.2.00,000/- and accordingly the Judgment and order was passed.

7. Learned counsel for the Petitioner vehemently submitted that there is absolutely no reason assigned to arrive at the conclusion of awarding the compensation of Rs.2,00,000/- and only on assumption and presumption the same is awarded.

8. Learned counsel for the Respondent submitted that in the Complaint itself the Respondent submitted that the oral termination

of the Respondent caused a heavy financial burden on him who was facing financial constraints and was also un-employed for a considerable long time. Though the learned counsel for the Petitioner submitted that the amount of Rs.2,00,000/- as compensation is an exhorbitant amount in my opinion, the amount cannot be said to be exhorbitant for the reason that the Respondent was out of job under unsustainable oral termination for a period of more than one year and further for a period of 14 months. Even considering escallation in prices of the daily needs and considering the fact that the respondent was out of job for 14 months and was to support his family without there being any income and finances in my opinion, the amount of Rs.2,00,000/- awarded as compensation can certainly not be exhorbitant amount and the learned labour Court committed no error in awarding the compensation at the rate of Rs.2,00,000/-.

9. The Petition thus being merit-less deserves to be dismissed at the threshold. Accordingly, Petition is dismissed.

(PRASANNA B.VARALE,J)