

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 8518 OF 2013
WITH
CIVIL APPLICATION NO. 1774 OF 2015**

M/s. Gad Logistics (I) P. Ltd.

..Petitioner

Vs

Goods Transport Labour Board
Greater Mumbai & Ors.

..Respondents

Mr. Avinash Jalisatgi with Mr. Amol Desai i/b. Mr. Robin Fernandes
for Petitioner.

Mr. M. S. Topkar for Respondent No. 3.

Mr. V. P. Malvankar – AGP for Respondent No. 4.

Mr. Sanjeev P. Kadam for Respondent Nos. 5 to 17.

**CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.**

DATE : JULY 26, 2017

P.C. :

By filing this petition under Article 226 of the Constitution of India, the petitioner has challenged the order dated 30th August 2013 (Exhibit 'E') by which the respondent no. 3 had directed the petitioner to reinstate 13 dismissed employees i.e. respondent nos. 5 to 17 till final orders are being passed by the concerned Minister / State Government.

2] Undisputedly the appellate authority against the termination order would be the respondent no. 4. In the circumstances, in the absence of any orders by the respondent no. 4 on the enquiry which was directed to be conducted by the respondent no. 4, the respondent nos. 1, 2 and 3 Board could not have directly ordered reinstatement of the respondent nos. 5 to 17. In the circumstances, we are of the view that the impugned order dated 30th August 2013 is without jurisdiction. We also find that before passing the impugned order, the Board has not given opportunity of hearing to the petitioner. Thus the impugned order is also in gross violation of principles of natural justice and for this reason also the same cannot be sustained. As a consequence, we set aside the order dated 30th August 2013.

3] Since the matter is seized over by the State Government as has been informed by the learned counsel appearing for the parties, we direct the respondent no. 4 to decide the appeal filed by the respondent nos. 5 to 17 (Exhibit 'B' page 10 of Civil application) on merits and the same shall not be dismissed on the ground of limitation.

4] The parties to appear before the respondent no. 4 on 9th August 2017 at 3.00 p.m. The respondent no. 4 shall thereafter pass

a reasoned order after giving due opportunity of hearing to the petitioner, respondent nos. 5 to 17 as also to respondent nos. 1 to 3. The decision as aforesaid be taken within three months from the date of appearance of the parties before the respondent no. 4.

5] All contentions except limitation are kept open to be raised by the parties. The petition is disposed of.

6] In view of disposal of the writ petition, civil application also stands disposed of.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)

Chandka