

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11138 OF 2016

The Sarpancha, Gram Panchayat,]
Vadgaon Anand, Taluka Junnar, District. Pune] Petitioner

Vs.

Vilas Chhagan Kashikedar] Respondent

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Mr. Rameshwar N. Gite, for petitioner.

Mr. Nitin A. Kulkarni, for respondent.

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CORAM : R.G. KETKAR, J.

DATE : 24th JULY, 2017.

P.C.

Heard Mr. Gite, learned Counsel for the petitioner and Mr. Kulkarni, learned Counsel for the respondent at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and Award dated 14th August, 2014 made by learned Presiding Officer, 4th Labour Court, Pune [for short 'Labour Court'] in Reference (IDA) No. 66 of 2004. By that order, Labour Court allowed reference and directed the petitioner, hereinafter referred to as 'first party' to reinstate the respondent, hereinafter referred to as 'second party' with continuity of service as also 50% back wages. Labour Court also directed the first party to pay costs of Rs. 5000/- to the second party.

3. In support of this Petition, Mr. Gite strenuously

contended that second party has committed serious misconduct. He submitted that findings recorded by the Labour Court in paragraph 14 are wholly perverse and are contrary to the evidence on record. He submitted that as the findings recorded by the Labour Court are perverse as also misconduct is proved, Labour Court was not justified in answering the reference in favour of the second party. He further submitted that in case, Court is not inclined to interfere with the impugned order, liberty may be reserved to the petitioner to hold inquiry by following due process of law.

4. On the other hand, Mr. Kulkarni has invited my attention to paragraphs 16 to 18 of the impugned order as also written statement filed by the petitioner. He submitted that Labour Court held that second party was working for more than 20 years with the petitioner. He was a permanent employee. Without holding inquiry, he is terminated from the service. He further submitted that even in the written statement, petitioner did not pray for adducing evidence before the Labour Court for substantiating misconduct of the second party. Even no separate application was filed before the Labour Court seeking permission to adduce evidence for substantiating misconduct alleged against the second party. He, therefore, submitted that no case is made out for interfering with the impugned order.

5. I have considered the rival submissions advanced by learned Counsel appearing for the parties. I have also perused the material on record. A perusal of the impugned order shows that

the petitioner did not hold inquiry against the second party. A perusal of the written statement shows that first party contended that second party has committed serious misconduct. In the written statement, no plea was taken for substantiating misconduct by adducing evidence before the Labour Court. That apart, no separate application was made before the Labour Court for seeking permission to adduce evidence for substantiating misconduct.

6. In view thereof, I do not find that the Labour Court committed any error in passing the impugned order which also restricts payment of 50% back wages. In other words, Labour Court did not award 100% back wages and ordered reinstatement with continuity of service.

7. The Petitioner is not in a position to demonstrate that the findings recorded by the Labour Court are contrary to the evidence on record or that they are not supported by evidence on record. In other words, petitioner has not demonstrated that findings recorded by Labour Court are perverse. Merely because on the basis of evidence on record, another view is possible that itself is not a ground for invocation of powers under Articles 227 of the Constitution of India.

8. In view thereof, Petition fails and the same is dismissed reserving liberty to the petitioner to hold inquiry against the second party by following due process of law. Order accordingly.

[R.G. KETKAR, J.]