

FARAD CONTINUATION SHEET  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1821 OF 2016

Shri Ramsingh Raghunandansingh  
Chouhan

.. Petitioner

vs.

M/s.N.S.Textiles

.. Respondent

Mr.Amol P. Mhatre for the petitioner

**CORAM : K. K. TATED, J.**  
**DATE : MARCH 27, 2017**

**P.C.:**

1 Heard the learned counsel for the petitioner.

2 By this petition under Article 226 and 227 of the Constitution of India, the Petitioner challenges the order dated 15.7.2010 passed by 3rd Labour Court, Thane rejecting petitioner's application for recovery of money under section 50 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 being Misc. Application (ULP) No.25 of 2008.

3 The learned counsel for the petitioner submits that in the present proceedings, initially the petitioner filed complaint (ULP) No.582 of 1997 alleging that the respondent have engaged in unfair labour practices by terminating petitioner's service from 20<sup>th</sup> September, 1997. In that complaint, petitioner prayed for reinstatement and back wages.

That complaint was allowed by the 3rd Labour Court, Thane by order dated 27.7.1998 directing respondent to reinstate the petitioner on the post which he was holding with full back wages and continuity of service w.e.f. 20.9.1997.

4 The learned Counsel for the petitioner submits that respondent Company preferred application on 8<sup>th</sup> May, 2001 for setting aside ex-parte order dated 27<sup>th</sup> July, 1998. There was delay. Hence, respondent preferred application for condonation of delay. Same was rejected by Labour Court.

5 The learned counsel for the petitioner submits that thereafter the respondent Company preferred Writ Petition No.8912 of 2003 challenging the order passed by Labour Court rejecting their application for condoning the delay in filing application for setting aside the ex-parte order dated 27.7.1998 in complaint (ULP) No.582 of 1997. That Writ Petition stand dismissed by this court (Coram: Smt.Nishita Mhatre, J.) by order dated 23.4.2004.

6 The learned counsel for the petitioner submits that Respondent Company again preferred Writ Petition No.5806 of 2007 challenging several orders passed by Labour Court and Industrial Court. That Writ Petition also stand dismissed by this court on 24.9.2007.

7 The learned counsel for the petitioner submits that thereafter the petitioner preferred application for recovery of money under section 50 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 before the Labour Court in Misc.Application (ULP) No.25 of 2008. He submits that by that

complaint, the petitioner claimed sum of Rs.2,06,400/- by way of back wages for the period 1.5.2001 to 31.6.2008 and interest @ 18% p.a. on unpaid wages.

8 The learned Counsel for the petitioner submits that in the said Misc.Application (ULP) No.25 of 2008, the respondent appeared and vehemently opposed for recovery of money under section 50 of the said Act. He submits that the respondent placed on record letter at Exhibits-22 to 24 showing that though the respondents called upon the petitioner to join the services immediately, the petitioner failed and neglected to do so. He further submits that the respondent brought on record the fact that the petitioner received letters dated 10.6.2004, 29.6.2004 and 9.1.2008, through the evidence of Mr.B.S.Sarkate, Union Representative who appeared for petitioner in complaint (ULP) No.582 of 1997. The learned Counsel for the petitioner submits that both the courts below erred in relying on the letters at Exhibits-22 to 24 in holding that though the respondents called upon the petitioner to resume his duty immediately, the petitioner failed and neglected to do so. He further submits that Union Representative Mr.B.S.Sarkate without going through the record made a statement on his own that letters at Exhibit-22 to 24 were duly received by the petitioner. Hence, the order passed by both the courts is required to be set aside.

9 The learned counsel for the petitioner submits that even the Industrial Court, Thane in Revision Application (ULP) No.15 of 2011 erred in coming to the conclusion that the petitioner employee is not entitled any relief. He submits that both the courts below failed to appreciate the fact that the respondent failed and neglected to place on record any documentary evidence to show that they were always ready

and willing to comply the orders passed by Labour Court. Hence, both the orders passed by Labour Court as well as Industrial Court are required to be set aside directing the respondent to pay entire back wages as claimed by the petitioner in their application under section 50 of the said Act.

10 It is to be noted that in the present proceedings, respondent Company specifically placed on record letters issued by them at Exhibit-22 to 24 calling upon the petitioner to come and join the services. Those letters were admitted by Union Representative Mr.B.S. Sarkate who appeared for the petitioner in complaint (ULP) No.582 of 1997. This itself shows that the petitioner was not interested to join the services at all but was interested only to recover his back wages without doing any work. These facts were properly considered by both the courts below. Hence, I do not find any substance in the present Writ Petition.

11 Writ Petition stands rejected.

JUDGE