

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.368 OF 2015

(ZILLA PARISHAD, AMRAVATI & ANR...VS.. LILA RAMDAS BHALAWI.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri D.M.Kale, Advocate for Petitioners.
Shri P.S. Raut, Advocate for Respondent.

CORAM : Z.A.HAQ, J.

DATED : NOVEMBER 09, 2017.

Heard.

2. The petitioners(employer) have challenged the orders passed by the subordinate Courts concurrently upholding the claim of the respondent(employee) for reinstatement and 50% of back-wages.

3. The respondent(employee) filed complaint before the Labour Court under Section 28 read with Item 1 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 contending that though she had worked with the employer as per the order dated 3rd January, 1996 till 22nd September, 2005 and was in employment for more than 240 days in the year preceding the date of termination, her services were illegally terminated w.e.f. 22nd September, 2005 in violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947.

4. After conducting the trial, the Labour Court had found that legal and proper inquiry was not conducted by the employer, that the employer had not proved before the Court the misconduct of the employee, that the employee had proved that her termination/dismissal was illegal and amounted to unfair labour practice. The Labour Court directed that the employee be reinstated with 50% back wages.

5. The employer challenged the order passed by the Labour Court before the Industrial Court in revision which is dismissed.

6. The subordinate Courts have concurrently recorded that the Enquiry Officer was not appointed by the employer. This finding is recorded on the basis of the admission given in cross-examination by Shri Shingne, a witness examined by the employer.

7. The submission on behalf of the employer is that a show cause notice and thereafter charge-sheet was served on the employee but she failed to give any explanation and therefore, the employer did not feel it necessary to conduct the enquiry and issued the order of termination/dismissal. The learned advocate for the petitioners/employer has not been able to point out any provision under the relevant rules to substantiate that the employer can dispense with enquiry if charges are not denied by the employee.

8. As the services of the employee were terminated without enquiry, the subordinate Courts have rightly upheld the claim of the employee. I do not find any illegality or

perversity in the impugned order which necessitates interference by this Court in the extraordinary jurisdiction.

The writ petition is **dismissed**.

9. The advocate for the respondent has made grievance that though the Labour Court passed the order upholding the claim of the respondent/employee for 50% back-wages on 22nd October, 2013, the respondent is not given the amount till today, that is for more than four years. In the circumstances, in my view, the petitioners shall pay costs of Rs. Twenty Thousand to the respondent/employee and produce receipt of it on record of this writ petition within three months.

10. The petitioners shall also make available to the respondent/employee all the benefits as per the order passed by the Labour Court within three months failing which the petitioners will be liable to pay interest @ 9% per annum on the amount receivable by the respondent/employee, the interest being chargeable from today and the amount of interest is required to be paid to the respondent/employee should be recovered from the concerned Officer/Officers who is/ are responsible for not implementing the order.

JUDGE