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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13276 OF 2017

Shri Tatyasaheb Kore Warana SSK Ltd.

...Petitioner

vs

Shri Ananda Mahadev Ingawale

...Respondent

.....

Mr. S.S. Pakale, i/b. Mr. Shankar M. Katkar, for the Petitioner.

Mr. Meelan Topkar, for the Respondent.

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CORAM : S.C. GUPTE, J.

DATED: JULY 9, 2018

P.C. :

. This petition challenges an order passed by the Labour Court at Kolhapur on a complaint of unfair labour practice, setting aside termination of the Respondent by the Petitioner Karkhana and order passed by the Industrial Court at Kolhapur dismissing the revision.

2. Since 1 October 1983 the Respondent was in the employment of the Petitioner Karkhana working as finisher in its boiler department. Vide order dated 19 December 1985, he was confirmed in the post and with effect from 12 May 2001 transferred to the engineering department. On 4 April 2003 he was suspended from service and served with a charge-sheet alleging various acts of misconduct against him. In the departmental enquiry initiated in pursuance of the charge-sheet, the Enquiry Officer held the charges to be

proved. By its order of dismissal dated 18 May 2006, the Petitioner Karkhana dismissed the Respondent with effect from 1 April 2006 on the basis of proven misconduct. The present complaint of unfair labour practice was filed thereafter by the Respondent. The Labour Court in its impugned judgment and order dated 22 March 2013 held the enquiry to be improper, being in disregard of principles of natural justice as also the findings of the Enquiry Officer to be perverse. A revision preferred from this order by the Petitioner was dismissed by the Industrial Court at Kolhapur.

3. After the matter has been heard at some length, this Court is of the view that the order of reinstatement does not suffer from any infirmity but the back wages ordered by the Court may merit some deduction. Upon queries to both parties about an acceptable deduction, learned Counsel for the Petitioner suggests award of 50% back wages to the Respondent, whilst the latter suggests 75% of back wages. Learned Counsel leave it to this Court to decide the final figure of back wages. Taking an overall view of the matter, this Court is of the view that 60% back wages would meet the ends of justice. This figure is accepted by both Counsel.

4. Accordingly, the writ petition is disposed of by varying the order of back wages and restricting them to 60% back wages.

5. On the suggestion of the Court on the last occasion, the Respondent has already been reinstated by the Petitioner. Back wages may be paid to him under the present order within a period of two

months from today. For this period of two months, the Respondent shall not proceed with the execution of the impugned order of the Courts below as also with the contempt proceedings. After payment of the amount as ordered by this Court, the impugned orders of the Court below shall be treated as fully satisfied and the execution application as well as contempt proceedings shall be disposed of accordingly.

(S.C. GUPTE, J.)

Smita Johnson Gonsalves	Digitally signed by Smita Johnson Gonsalves Date: 2018.07.11 15:38:35 +0530
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