

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3655 OF 2001

Municipal Corporation for the city
of Kalyan & Dombivli

...Petitioner

Vs.

Shri Pandurang B. Jadhav

...Respondent

Mr.A.S. Rao for Petitioner.

Mr.V.K. Washik for Respondent.

CORAM : S.C. GUPTE, J.

DATE : 11 JUNE 2018

P.C. :

Heard learned Counsel for the parties.

2 This petition challenges an award passed by the Labour Court at Thane in a reference under Section 10(1) read with Section 12(3) of the Industrial Disputes, Act, 1947

3 The Respondent workman was employed with the Petitioner corporation as a worker-cum-fitter. His last drawn salary was Rs.2,300/- per month. He was issued a dismissal order on 18 July 1994 all of a sudden, without giving any show cause notice and also without conducting any inquiry. The Respondent challenged the order of termination. When the matter came up before the Labour Court on a reference, the Labour Court found that the Respondent was terminated by the Petitioner without following the provisions of Section 25-F of the Industrial Disputes Act. The contention of the Petitioner that the Respondent had voluntarily left the job

of his own accord with effect from 15 March 1994 was rejected by the Labour Court. The Labour Court held that the Respondent was entitled to reinstatement with continuity in service and full backwages. This order is challenged by the Petitioner corporation in the present petition.

4 The only argument advanced by Mr.Rao, learned Counsel for the Petitioner, is that the record of the case indicates that the Respondent had left the services of the Petitioner by way of a voluntarily abandonment and there was no dismissal of the Respondent on the part of the Petitioner. This submission flies in the teeth of the record. Learned Counsel for the Respondent draws my attention to the record of the proceedings before the Labour Court. In fact, it is found from the record that the competent authority of the Municipal Corporation had passed an order that the absence of the Respondent from 15 March 1994 to 6 July 1994 would be treated as leave without pay. It also transpires from the same order of the Municipal Corporation that the Respondent actually worked with the Dombivli office of the Municipal Corporation from 7 June 1994 to 22 July 1994. The order directs payment of salary to the Respondent for this period and terminates his services thereafter. There is, in the premises, no case for treating the absence of the Respondent from 15 March 1994 to 18 July 1994 as unauthorised.

5 What is indisputable is that the Respondent was a workman in the employment of the Petitioner corporation; he was continuously working as a fitter in the Petitioner corporation till his termination; and there is admittedly no inquiry held against him before his termination. The purported termination is accordingly entirely illegal and was rightly set aside by the Labour Court in its impugned order passed on a reference

made to it.

6 There is, accordingly, no substance in the petition. Rule is, accordingly, discharged and the petition is dismissed. No order as to costs.

7 In pursuance of the order passed by the Labour Court, the Respondent was reinstated on, and paid salary with effect from, 14 May 2009 and has since worked with the Petitioner corporation. The Respondent has not received his wages from 18 July 1994 to 13 May 2009. There is practically no defence to the order of back wages, particularly those payable between the date of the impugned order of the Labour Court and till 13 May 2009. The Petitioner shall, accordingly, pay the entire arrears of backwages to the Respondent within a period of twelve weeks from today. In case any amount is deposited by the Petitioner corporation in court, the Respondent will be entitled to withdraw such amount together with accrued interest, if any. Such withdrawal shall be adjusted towards the dues payable by the Petitioner to the Respondent.

(S.C. GUPTE, J.)