

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

C.A.W. NO.724/2018
IN
WRIT PETITION NO.4652/2003

Ramkumar S/o Ramchandra Hatwar

..Vs..

Maharashtra State Road Transport Corporation, through the Divisional Traffic
Superintendent, Nagpur and others

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

Court's or Judge's orders

Shri A.H. Jamal, Advocate for applicant/ petitioner.
Shri P.B. Patil, Advocate for respondent Nos.1 and 2.

CORAM : Z.A. HAQ, J.
DATE : 29.6.2018.

1. By this application, filed on 16th February, 2018, the original petitioner (employee) seeks modification of the judgment delivered in Writ Petition No.4652/2003 on 24th July, 2014. According to the employee, this Court held that the order passed by the Industrial Court upsetting the order of Labour Court was not proper and this Court restored the order passed by the Labour Court, however, while concluding the judgment, this Court held that the employee would be entitled for reinstatement in service without continuity of service and without back wages, which is an apparent inadvertent error, as the Labour Court had granted reinstatement of the employee with continuity of service

and back wages.

2. The application is opposed on behalf of the respondents (employer) on the ground that it is filed after about three and half year and there is no explanation for the inordinate delay in filing the application. On merits of the matter, it is submitted that the Labour Court had committed an error while granting back wages to the employee without considering whether the employee was gainfully employed during the relevant period or not.

3. After considering the facts on record, I find that in the body of order passed by the Labour Court it was recorded that the employee would be entitled for reinstatement with continuity of service and full back wages. However, in the operative part of the order of Labour Court, as placed on record of the petition (at page No.22 of the paper book), the order was to the effect that the employee would be entitled for reinstatement in service, but, without continuity of service and back wages. The learned Advocate for the employee has submitted that it was an inadvertent typing error and instead of “with continuity of service and full back wages” it was typed as “without continuity of service and full back wages”. This submission made by the Advocate of employee is not controverted by the Advocate appearing for the employer.

4. In these facts, though the objection raised on behalf of the employer about inordinate delay in filing the present application appears to be justified, in my

view, the interests of justice require that the judgment passed by this Court should be modified holding that the employee would be entitled for continuity of service.

5. As far as claim of the employee for back wages is concerned, I find that the Labour Court had held the entitlement of the employee without considering the relevant aspects, specially as to whether the employee was gainfully employed during the relevant period or not. Therefore, I am not inclined to modify the judgment on this point and the conclusions that the employee would not be entitled for back wages are maintained.

5. Consequently, it is held that the original petitioner (employee) would be entitled for all the consequential benefits on the basis that he was in continuous service but he will not be entitled for actual back wages for the concerned period.

6. The judgment given in Writ Petition No.4652/2003 on 24th July, 2014 accordingly stands modified.

7. The civil application is **disposed** accordingly.

8. In the circumstances, the parties to bear their own costs.

JUDGE