

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

WRIT PETITION NO.4527 OF 2015

(NATIONAL BUREAU OF SOIL SURVEY...VS.. MADHUKAR RAMJI WAHANE & ANR.)

WITH

WRIT PETITION NO.5615 OF 2015

(MADHUKAR RAMJI WAHANE...VS.. CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL & ANR.)

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

Court's or Judge's orders

Shri A.R.Atrey, Advocate for Petitioner in WP No.4527/15 &
 Respondent No.2 in W.P. No.5615/2015.

Shri J.L.Bhoot, Advocate for Petitioner in WP No.5615/15 &
 Respondent No.1 in W.P. No.4527/2015.

CORAM : Z.A.HAQ, J.

DATED : JANUARY 30, 2018.

1. Heard.

2. Writ Petition No. 4527 of 2015 is filed by the employer to challenge the order passed by the Central Government Industrial Tribunal by which the reference is answered in favour of the employee, however, in lieu of reinstatement and other benefits compensation of Rs.Fifty Thousand is granted.

3. Writ Petition No.5615 of 2015 is filed by the employee, being dissatisfied with the relief granted by the Tribunal. The employee claims that he is entitled for reinstatement with continuity of service and back wages.

4. The learned advocate for the employer has submitted that the employee was appointed on temporary post and his service conditions were governed by the Central Civil Services (Temporary Services) Rules, 1965 and

therefore, it cannot be said that the termination of services of the employee was illegal because of non-compliance of the provisions of the Industrial Disputes Act, 1947. It is further submitted that the appointment given to the employee stipulated that he was on probation for two years and it was open to the employer to terminate his services without assigning any reason, by one month's notice and without paying one month's salary, and the employer exercised its right as per Clause (6) of the appointment order. It is submitted that the employer has not committed any illegality by terminating the services of the employee before completion of the probation period.

5. The submission on behalf of the employee is that the establishment, where the employee was working is under the control of a co-operative society (petitioner in Writ Petition No.4527/2015) and therefore, the provisions of Bombay Shops and Establishments Act, 1948 are applicable and consequently the probation period of the employee could not have been extended beyond three months. Further it is submitted that on completion of three months, the employee acquired the status of confirmed employee and his services could not have been terminated without conducting departmental enquiry. It is argued that the Tribunal has not considered these submissions though raised before it, and therefore the impugned order is unsustainable in law.

6. After going through the impugned order, I find that none of the submissions as recorded above and said to have been argued before the Tribunal are considered by it. In normal course, appropriate order should be to remand the proceedings to the Tribunal for deciding the matter afresh.

However, in the facts of the present case specially that the termination is of July, 1988 and the employee is now aged about 53-54 years, I am of the view that remand will not be justified.

7. Considering the facts of the case, length of service of the employee and the stipulation in the appointment order which enabled the employee to sever the employee-employer ties during probation period without assigning any reason, I find that the order passed by the Tribunal is proper and cannot be faulted with.

The writ petitions are **dismissed**. In the circumstances, the parties to bear their own costs.

The learned advocate for the employee has submitted that the employer has not paid the amount of Rs.Fifty Thousand as directed by the Tribunal.

The employer is directed to pay Rs.Fifty Thousand as quantified by the Tribunal to the employee till 15th April, 2018, failing which, the employer shall be liable to pay interest on the amount of Rs.Fifty Thousand @ 9% per annum, the interest being chargeable from 1st May, 2013 i.e. immediately after the order is passed by the Tribunal, till the amount is paid to the employee.

JUDGE