

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

WRIT PETITION NO.373 OF 2018

The State of Maharashtra ... Petitioner
Versus
Dagdu Khanu Hazare ... Respondent

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Mrs. V. S. Nimbalkar, AGP for the Petitioner-State.
Mr. Yuvaraj S. Gharal for the Respondent.
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CORAM : M. S. KARNIK, J.

DATE : 12th MARCH, 2019.

P. C.:

1. Rule. Rule made returnable forthwith. By consent of the parties, heard finally.

2. By this petition under Articles 226 and 227 of the Constitution of India, the petitioner challenges the order dated 25th August, 2016 passed by the Member, Industrial Court No.1, Kolhapur, thereby modifying the judgment and order of the Labour Court only to the extent of compensation. In a complaint of unfair labour practice filed by the respondent under Clauses 1(a), (b), (e), (f) and (g) of item-1 of Schedule-IV of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971, the Labour Court partly allowed the complaint by granting in lieu of reinstatement, compensation of Rs.10,000/- to be paid to the respondent.

3. In the complaint before the Labour Court the respondent alleged that he was appointed as Watchman in the Social Forestry Department under the Jawahar Employment Scheme. He was appointed since 01/11/1995 for two years and he was terminated on 04/04/1998. This termination was on the ground of handing over of the plantation scheme to the concerned department i.e. B & C department and hence, as no work was available, respondent came to be terminated.

4. The respondent alleged unfair labour practice, contending that there is non compliance of the provisions of Section 25(F) of the Industrial Disputes Act, 1947. The Labour Court recorded a finding that there was non compliance of the mandatory provisions of Section 25(F) of the Industrial Disputes Act and hence the unfair labour practice is established. However, in lieu of reinstatement, for the reasons recorded, directed the petitioner to pay compensation of Rs.10,000/- for non compliance of the provisions of Section 25(F) of the Industrial Disputes Act.

5. The Industrial Court, in revision filed by the petitioner under Section 44, modified the order and enhanced the compensation to Rs.50,000/-.

6. Learned AGP contended that the petitioner was appointed under the scheme. According to her, once the scheme came to an end, the petitioner's services were no longer required. In her submission, in such a situation the question of compliance with the provisions of Section 25(F) of the Industrial Disputes Act does not arise. She submits that the petitioner was never appointed against the sanctioned post and he was only a workman on daily wages entitled for continuance till subsistence of the scheme. According to her, the Industrial Court was not justified in enhancing the compensation to Rs.50,000/-, inasmuch as the Industrial Court has lost sight of the fact that the respondent in his cross examination has admitted that he was working on daily wages after termination.

7. Learned Counsel for the respondent, on the other hand supported the order passed by the Courts below. I have considered the submissions. Both the Courts below have concurrently held that there is non compliance of Section 25(F) of the Industrial Disputes Act. The Labour Court in lieu of reinstatement has awarded Rs.10,000/-. The Industrial Court, after taking into consideration the controversy involved and the decision of the Hon'ble Apex Court in the case of Madhya Pradesh Administration Vs. Tribhuvan reported in 2007 II CLR 694 and

for reasons recorded in the impugned order came to the conclusion that compensation of Rs.50,000/- would subserve the ends of justice.

8. Having regard to the concurrent findings recorded by the Courts below and more particularly, if in the exercise of its discretion, the Revisional Court has enhanced the compensation amount from Rs.10,000/- to Rs.50,000/- in lieu of reinstatement, I do not think this to be a fit case to interfere with the impugned order in the exercise of writ jurisdiction. The writ petition is accordingly dismissed. Rule is discharged with no order as to cost.

(M. S. KARNIK, J.)