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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3699 OF 2018

The Commissioner, Sangli Miraj
& Kupwad Cities Municipal
Corporation

..Petitioner

vs.

Dilip Dhonduram Kamble

..Respondent

....

Ms. Sabita Bhowmik i/b. Mr. Shivaji Masal for the petitioner.
None for respondent.

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CORAM : M.S.KARNIK, J.

DATE : 16th APRIL, 2019

P.C. :

Heard learned Counsel for the petitioner.

2. By this Petition filed under Article 226 and 227 of the Constitution of India, the Petitioner - Sangli Miraj & Kupwad Cities Municipal Corporation is assailing the order dated 19/11/2016 passed by the Industrial Court at Sangli.

3. The respondent was appointed as a Coolie with the petitioner with effect from 19/2/1990. The respondent was

suspended pending enquiry into the allegations that he had illegally cut standing trees without any authority or permission. The respondent was paid subsistence allowance at the rate of 50% of his wages till enquiry proceedings against him came to be withdrawn with effect from 20/6/2014.

4. The respondent filed a complaint of Unfair Labour Practice before the Industrial Court contending that in view of the provisions of the Industrial Employment (Standing Orders) Act, 1946 which is applicable to him and also in view of the provisions of the Maharashtra Civil Services (Joining Time, Foreign Service and Payment during Suspension, Dismissal and Removal) Rules 1981, the respondent is entitled to full wages after six months of his suspension. The Industrial Court allowed the complaint and directed the petitioner to pay remaining 50% of basic wages, dearness allowance and other composite fareness allowance since 1/8/2011 till 20/6/2014 by way of subsistence allowance within a period of three months from the date of the order of the Industrial Court.

5. Learned Counsel appearing on behalf of the petitioner contended that serious charges were levelled against the respondent that he cut standing trees without any authority or permission of the petitioner. During the period of suspension the respondent was paid 50% subsistence allowance. It is her submission that for such a serious misconduct which was alleged against the respondent, the petitioner cannot be saddled with the liability to pay full wages during the period of suspension.

6. I have gone through the order passed by the Industrial Court. The Industrial Court after taking into consideration the provisions of the Industrial Employment (Standing Orders) Act, 1946, and also in view of the provisions of the Maharashtra Civil Services (Joining Time, Foreign Service and Payment during Suspension, Dismissal and Removal) Rules 1981, came to the conclusion that the respondent is entitled to full wages after lapse of six months of suspension.

7. In my opinion, the view of the Industrial Court cannot be faulted. If there are adequate provisions which entitle

an employee to full wages as subsistence allowance after lapse of six months of his suspension, then the respondent cannot be deprived of this benefit merely because enquiry is pending. Even the enquiry against the respondent has been withdrawn. In this view of the matter, I do not find any error with the view taken by the Industrial Court. The Petition is dismissed with no order as to costs.

(M.S.KARNIK, J.)