

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

Writ Petition No. 7889 of 2018

State of Maharashtra
Vs.
Tukaram Babarao Pawar

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

Court's or Judge's orders

Mr. A.D. Sonak, AGP for petitioner.

CORAM : MANISH PITALE, J.

DATED : APRIL 16, 2019

By this Writ Petition, the petitioner State of Maharashtra has challenged concurrent orders passed by the Labour Court and Industrial Court in favour of the respondent.

2. The respondent was working as a Watchman in Class IV since 01/12/1982 with the petitioner. On a charge of absenteeism, respondent was proceeded against and upon culmination of departmental enquiry the service of the respondent was terminated on 28/5/2005. This was the made subject matter of challenge by the respondent by filing complaint before the Labour Court at Amravati.

3. By the order dt. 31/1/2015, the

Labour Court held on preliminary issues in favour of the respondent, by rendering finding that the enquiry conducted by the petitioner was unfair and that the findings rendered by the enquiry officer were perverse. Consequently, the petitioner was granted an opportunity to lead evidence before the Labour Court in order to prove the misconduct against the respondent. It has come on record that despite opportunity being granted, the petitioner failed to lead any evidence. Consequently, by the Judgment and order dt. 31/1/2015, the Labour Court allowed the complaint filed by the respondent, quashing and setting aside the order for dismissal from service and directing that since the respondent had attained the age of superannuation, instead of reinstatement he shall be entitled for all service benefits and payment of full back wages till the date of his superannuation.

4. Aggrieved by the said Judgment and order of the Labour Court, the petitioner filed revision petition before the Industrial Court. By the impugned Judgment and order dt. 15/09/2016, the Industrial Court dismissed the revision petition and confirmed the order passed by the Labour Court in favour of respondent.

5. The aforesaid Judgment and order dt. 15/09/2016 passed by the Industrial Court is challenged by the present writ petition which was filed on 28/08/2018. Apart from the fact that the writ petition was filed after a period of about 2 years, the documents on record show that the enquiry conducted by the petitioner was found to be unfair and the findings of the enquiry officer were also found perverse. The petitioner failed to take any steps before the Labour Court to lead evidence and prove misconduct. In this situation, this Court refuses to exercise writ jurisdiction in the present case and therefore the orders passed by the Labour Court and Industrial Court concurrently stand confirmed. The petitioner is directed to comply with the directions given by the Courts below within a period of 8 weeks from today.

JUDGE

MP Deshpande