

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO.843 OF 2019****IN****WRIT PETITION NO.8017 OF 2017**

Laxmikant Ramgopal Dwivedi

...Applicant

IN THE MATTER BETWEEN

GBS Associates

...Petitioner

vs.

Laxmikant Ramgopal Dwivedi

...Respondent

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Mr. Avinash D. Kango, for the Applicant in WP/8017/2019.

Mr. Ashok D. Shetty, a/w. Mr. Swapnil P. Kamble and Dr. S.N. Jadhav,
for the Respondent in CAW/843/2019 and for the Petitioner in
WP/8017/2019.

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CORAM : S.C. GUPTE, J.**DATED: 6 MARCH, 2020****P.C.:**

. Heard learned Counsel for the parties.

2. This civil application seeks directions against the Respondent, who is the employer of the Applicant, to deposit the differential amount of back wages. The writ petition has been pending hearing and final disposal before this Court, after Rule was issued on 13 August 2018. At the time of issue of Rule, this Court recorded a statement on the part of learned Counsel for the Respondent that it was

prepared to reinstate the Applicant herein in his employment without prejudice to its rights and contentions in the petition on wages on the basis of continuity of service. The statement was noted and accepted and against deposit of 50% back wages, the order of 50% back wages of the Court below was stayed. The Petitioner employer has deposited this amount. It is, however, submitted in the civil application by the Applicant herein that the amount falls short of Rs.1,35,160.50. The application also seeks a direction for withdrawal of the amount deposited by the Petitioner employer.

3. Learned Counsel for the Petitioner informs the Court that in all documents/pleadings so far, that is to say, in the justification statement of the Applicant as well as in his statement of claim and affidavit of evidence, the second party workman had deposed to his last drawn wages of Rs.8,189/- per month. Accordingly, the award also mentions this amount as his last drawn wages. It is submitted that based on these last drawn wages, entire 50% back wages have been duly deposited by the Petitioner herein before this Court in pursuance of the order of 13 August 2018.

4. That clearly appears to be in order. The Applicant herein has repeated at a number of places that his last drawn wages were Rs.8,189/-. It is not disputed that the amount of back wages deposited by the Petitioner employer has been computed on the basis of these wages.

5. So far as the Applicant's request for withdrawal of back wages is concerned, the same can obviously not be granted. Learned Counsel for the Applicant submits that his client has no means of

providing for himself. In the order of 13 August 2018, the employer's statement for reinstatement of the Applicant herein was recorded. The Applicant was expected to report on duty and get wages prospectively.

6. The Applicant as well as the Petitioner employer have different versions on the subject of reinstatement. Whereas it is the case of the Applicant that despite his having reported on duty, the Petitioner employer did not reinstate him or assign any work to him. On the other hand, it is the case of the Petitioner that when he reported for the first time in pursuance of the order of 13 August 2018, he was given his uniform and was assigned work with a third party, but he never attended duties. (The Petitioner's business is of providing of liftmen and others to various third parties and, accordingly, the Applicant, who was a liftman, was assigned duty with a third party.) Be that as it may, all these issues cannot be gone into in the present civil application. They may instead be considered when the petition is taken up for hearing. As of now, the Petitioner employer reiterates his original offer to reinstate the Applicant herein, if the latter reports on duty and submits documents such as aadhar card and pan card and also furnishes his current residential address to the Petitioner. Learned Counsel appearing for the Applicant states that his client is ready to furnish his current address and submit aadhar card and pan card to the Petitioner and the Petitioner may, thereupon, engage his services by reinstating him.

7. Accordingly, the Applicant herein may report to the head office of the Petitioner at 703, "Akshar" Blue Chip Corporate Park, Thane Belapur Road, Turbhe Naka, Mumbai-400 705, on 16 March 2020. Learned Counsel for the Applicant submits that he will depute Mr.

Shehbaaz Anees Sayed, Advocate, to accompany him to the head office of the Petitioner. The Applicant shall, accordingly, report at 11.00 a.m. on 16 March 2020. The Petitioner shall, thereupon, engage the Applicant for services either at its head office or at any client's location. In either case, the Applicant will have to attend the work accordingly.

8. The civil application is disposed of.

(S.C. GUPTE, J.)

Smita
Gonsalves

Digitally signed by
Smita Gonsalves
Date: 2020.03.11
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