

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.6725 OF 2018**

Municipal Commissioner

The Municipal Corporation of Greater Mumbai ...Petitioner

vs

Shri. Keshave Kashiram Palyekar

...Respondent

.....

Mr. Ashwin Sakolkar, a/w. Mr. Santosh Parad, for MCGM/Petitioner.

Mr. Prakash Devdas, a/w. Ms. Vidula Patil and Ms. Pravina Kadam, for the Respondent.

.....

CORAM : S.C. GUPTE, J.

DATED: 16 JANUARY, 2020

P.C. :

. This writ petition challenges the legality of an order passed by the Labour Court at Mumbai on a reference made to it under the Industrial Disputes Act, 1947. By the impugned order, the Labour Court answered the reference, which concerned challenge to the termination of the Respondent's services by the Petitioner Municipal Corporation, in the affirmative; the impugned termination dated 29 June 2012 was declared as illegal; the Respondent was treated as in service till 30 June 2012 and retired on and from 1 July 2012; and the Petitioner Corporation was directed to pay salary and release all retiral benefits to the Respondent as per applicable rules and service conditions.

2. The petition really is in a narrow compass and can be disposed of on a short legal point. Accordingly Rule is issued and taken

up forthwith for hearing by consent of Counsel.

3. It is not in dispute that the departmental enquiry conducted against the Respondent herein as a prelude to his termination was not in accordance with Model Standing Orders. It is hardly debatable that these standing orders are applicable in the matter of termination of employees of the Petitioner Corporation for misconduct. The termination was, thus, illegal and deserved to be set aside.

4. The impugned order of the Labour Court setting aside the termination does not, accordingly, merit any interference under Articles 226 or 227 of the Constitution of India.

5. The writ petition is, in the premises, dismissed.

Smita
Gonsalves

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Gonsalves
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(S.C. GUPTE, J.)