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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10783 OF 2017

Deputy Director, Social Forestry

...Petitioner

vs

Bhimrao Shripat Kamble

...Respondent

.....

Shri. S.H. Kankal, AGP, for the Petitioner-State.

Mr. Kedar P. Lad, for the Respondent.

.....

CORAM : S.C. GUPTE, J.

DATED: 13 JANUARY, 2020

P.C. :

. Heard learned AGP for the Petitioner State and learned Counsel for the Respondent. This writ petition challenges an order passed by the Labour Court at Kolhapur on a complaint of unfair labour practice made by the Respondent herein and upheld by the Industrial Court at Kolhapur in revision. The complaint was under Section 28, read with Section 1(a), (b), (e) and (f) of Schedule IV of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971 ("Act"). The controversy concerns the Petitioner's retrenchment from service without following the procedure of law. The Labour Court as well as the Industrial Court in revision has come to a definite conclusion that though the Petitioner State has proceeded on the basis that the Respondent was in service and was retrenched, what was paid to the Respondent by way of retrenchment compensation was

not in accordance with law. The court was of the view that the employer had to pay 15 days' average pay for every year of continuous service before his retrenchment. The court also observed that this compensation had to be paid on or before the date of retrenchment. The court held that compensation was not paid on or before 1 October 1996, which was the date of the Respondent's retrenchment; what was paid was on 7 October 1996. The court was, accordingly, of the view that the Respondent's termination with effect from 1 October 1996 was not accompanied by compliance of applicable legal provisions and that it amounted to an unfair labour practice. Concurrent assessment of the evidence by the Labour Court and the Industrial Court in this behalf cannot be faulted with either as unreasonable or perverse. The conclusions of the courts below are supported by some evidence and are in accordance with law. The impugned orders are within jurisdiction and cannot be termed as perverse or unreasonable. The writ petition, accordingly, has no merit and is dismissed.

(S.C. GUPTE, J.)

Smita
Gonsalves

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Smita Gonsalves
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