

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 13104 OF 2019

Appasaheb Nalawade Gadhinlaj Taluka Petitioner
Sahakari Sakhar Karkhana Limited

Versus

Shankar Virupaksha Shirkole Respondent

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Mr. S.S. Patwardhan i/b Mr. B.R. Mandlik for the Petitioner.

CORAM : S.C. GUPTE, J.

DATE : 23 JANUARY 2020

P.C. :

. Heard learned Counsel for the Petitioner. This petition challenges two concurrent orders passed by Labour Court, Kolhapur and Industrial Court, Kolhapur on a revision from and out of a complaint of unfair labour practice. The complaint was filed by the Respondent herein challenging his termination from the services of the Petitioner as wrongful. The Respondent was terminated after a departmental inquiry. The charge against him was that he had availed of staff advance, but had not returned the same. In its part-I judgment, the Labour Court came to the conclusion that the inquiry was not just or fair. The Petitioner employer thereafter led evidence in justification of the punishment before the Labour Court. In its part-II judgment the Labour Court held that the charges against the employee were not proved and the punishment of dismissal was not

justified. It accordingly, set aside the termination and ordered his reinstatement.

2. This order was partly confirmed in revision by the Industrial Court at Kolhapur. While reinstatement was confirmed subject to the rule of superannuation, the order of 50% backwages granted by the Labour Court was, however, set aside. There is no infirmity in the impugned order of the Revisional Court. The punishment of termination from service for non-refunding of staff advance was clearly not justified. The Court rightly took into account the fact that admittedly, no notice was issued to the complainant for refund of the advance nor was there any proceeding for recovery of the same. The Court also came to the conclusion that no action was taken by the employer against other employees, who had similarly availed of staff advance and not returned the same. These observations cannot be assailed either as perverse or as unreasonable.

3. The impugned order, accordingly, does not call for any interference under Articles 226 or 227 of the Constitution of India. Writ petition is dismissed.

(S. C. GUPTE, J.)