

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

LETTERS PATENT APPEAL NO.343 OF 2009 IN
WRIT PETITION NO.5077 OF 2008 (D)

Prakash Motiram Jibhkate,
Aged about 44 years, Occ.
Service, r/o. 1470, New Nandanwan
Layout, Nagpur. **APPELLANT**

// VERSUS //

Nagpur District Central
Cooperative Bank Ltd., Nagpur
Che Sevakantchi Sahakari Pat
Purwatha Sanstha, Maryadit
Ruikar Road, Gandhi Sagar,
Nagpur, through its President. **RESPONDENT**

Mr.N.M.Jibhkate, Advocate for the Appellant.
Mr.S.S.Ghate, Advocate for the Respondent.

CORAM : R. K. DESHPANDE &
AMIT B. BORKAR, JJ.

DATE : 30.1.2020.

ORAL JUDGMENT (Per R. K. Deshpande, J) :

1. Rule returnable forthwith. Heard finally by consent of learned Counsels for the parties.

2. The only question involved in this Letters Patent Appeal is regarding entitlement of the appellant to backwages. The Labour Court has refused to grant reinstatement, but granted backwages from 24.2.1996 to 28.9.2001. The Industrial Court set it aside on the ground that the appellant did not establish that he was in gainful employment and that there was no pleading to that effect. Learned Single Judge has confirmed the order. Therefore, this Letters Patent Appeal.

3. What we find is that the finding of facts recorded by the Courts below that the appellant worked continuously for 240 days during the period from 15.2.1992 to 24.2.1996 is not disputed. It is also not disputed that there was violation of Section 25-F of the Industrial Disputes Act, 1947. Reinstatement has not been granted because the petitioner joined the service in District Court on 25.9.2001. Hence, the claim of appellant is for grant of backwages from 24.2.1996 to 24.9.2001.

4. The appellant has rendered four years' continuous service. He has not been granted back wages and that order has attained finality. With effect from 25.9.2001, the appellant has joined service in District Court. In our view, the claim of the appellant for the period from 24.2.1996 to 28.9.2001 has not been considered. During this period, the appellant was not in employment. Hence, appellant was entitled to notional reinstatement for this period. In lieu of grant of reinstatement for the period from 24.2.1996 to 28.9.2001, the appellant can be held entitled to compensation of Rs.75,000/-.

5. In view of the aforesaid position, we partly allow this Letters Patent Appeal and hold that the appellant is entitled to compensation of Rs.75,000/- in lieu of reinstatement in service during that period. The compensation be paid within a period of eight weeks from today, failing which interest @ 18% p.a. shall be paid.

JUDGE

JUDGE

[jaiswal]

