

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

LETTERS PATENT APPEAL NO.58 OF 2013
IN
WRIT PETITION NO.2904 OF 2006

Pradeep S/o Waman Kathane, Katangikala, Tah. and Dist. Gondia

-vs-

Central Krishak Seva Sahakari Sanstha, Thr. its President, Office at Balaghat Road, Near Shyam
Trader, Gondia. Tahsil and Dist. Gondia

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. R. Patil, Advocate for appellant.
Respondent served.

CORAM : A. S. CHANDURKAR AND G. A. SANAP, JJ.
DATE : October 13, 2021

P. C.

The common judgment dated 18/06/2012 in Writ
Petition No.2904/2006 and connected writ petitions is
challenged in this Letters Patent Appeal. The short question
involved is as regards the quantum of retrenchment
compensation to which the appellant would be entitled pursuant
to retrenchment of his services.

The appellant was engaged temporarily with the
respondent-Co-operative society. After temporary service of
about four years his services were terminated as the financial
condition of the Society was not good. The Society issued a
cheque towards one month's salary in lieu of notice while
terminating the services of the appellant. The appellant
challenged the order of termination by filing complaint under

Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The Labour Court by its judgment dated 09/12/2005 allowed the complaint and directed reinstatement with continuity of service and 50% back-wages. This judgment of the Labour Court was challenged by both the parties by preferring separate revision applications. The Industrial Court by its common order dated 31/12/2005 set aside the order of termination and directed payment of 40 months' salary being lump sum compensation in lieu of reinstatement. Being aggrieved the appellant as well as the Society filed separate writ petitions and by the impugned judgment the learned Single Judge directed payment of retrenchment compensation equivalent to 30 days average salary for every completed year of continuous service. Being aggrieved the original complainant has filed this appeal.

2. Shri A. R. Patil, learned counsel for the appellant submits that the monetary compensation as awarded by the learned Single Judge is on a lower side and in view of the law laid down in *Jagbir Singh vs. Haryana State Agriculture Marketing board and anr. (2009) 15 SCC 327* the appellant was entitled to higher amount of compensation. He has also referred to the decision in Civil Appeal in Special Leave Petition (C) No.19648 of 2019

(Allahabad Bank and ors. vs. Krishan Pal Singh) decided by the Honourable Supreme Court on 20/09/2021 and on the aforesaid basis urged that the appellant be awarded higher amount of compensation.

3. There is no appearance on behalf of the respondent.

With the assistance of the learned counsel for the appellant we have perused the orders passed by the Courts below. It is seen that the Labour Court as well as the Industrial Court have recorded a finding that the Society was suffering from heavy losses and recovery proceedings for an amount of Rs.90 lakhs were pending against the Society. The audit report of the Society was also referred to by this Court. The learned Single Judge while determining the amount of compensation has referred to the decision in *Anglo-American Direct Tea Trading Company Ltd. vs. Workmen of Nahortoli Tea Estate (1961) II L.L.J. 625* wherein compensation equivalent of 30 days of annual pay for every completed year of continuous service was awarded. On that basis compensation equivalent to 30 days of average pay for every completed year of continuous service was granted. We find that learned Single Judge was justified in granting aforesaid compensation especially when even under the provisions of Section 25-F of the Industrial

Disputes Act, 1947 the compensation prescribed is equivalent to 15 days average pay for every completed year of service. Moreover, the financial position of the employer also cannot be ignored while determining the amount of compensation. Taking all these facts into consideration we do not find that any case is made out to grant higher compensation to the appellant in this proceedings.

In the light of aforesaid the Letters Patent Appeal stands dismissed leaving the parties to bear their own costs.

JUDGE

JUDGE

Asmita