

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.10256 OF 2022
IN
WRIT PETITION NO.48 OF 2020

Mr.Kishore Govind Magar

..Applicant

IN THE MATTER BETWEEN

M/s.Hindustan Construction Co. Ltd. & Ors. ...Petitioners

Vs.

Mr.Kishore Govind Magar

... Respondent

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Mr.Kishor Govind Magar, Applicant in person in IA No.10256 of 2022.

Mr.Rahul Nerleka for the Respondent/Original Petitioners.

CORAM : C.V. BHADANG, J.
DATE : 1 AUGUST 2022

P.C.

. This Application is filed by the Applicant-Workmen seeking following reliefs:-

(a) *This Hon'ble Court be pleased to direct the Petitioner-Company to reinstatement me in services with immediate effect as per dated 17/11/2021 passed by the Hon'ble High Court in the above said Writ Petition;*

(b) *This Hon'ble Court be pleased to punish the Petitioner-Company for committing to contempt of court order dated 17/11/2021 passed by the Hon'ble High Court in Writ Petition No.48 of 2020 under the provisions of section*

12 of the Contempt of Court Act, 1971 and read with Article 215 of the Constitution of India, 1950 for having intentionally, deliberately and willfully committing contempt of court by disobeying the order dated 17/11/2021;

(c) Cost of these proceedings provided for,

(d) Such other and further relief as the nature and circumstances of the present matter requires.”

2. It can be seen that the Interim application is filed by the Applicant in WP No.48 of 2020. That is a Petition filed by the Respondent-Employer Hindustan Construction Co. Ltd. challenging the order dated 31 August 2019 passed by the Labour Court in Application (IDA) No.61 of 2018. That was an application filed by the present Applicant-Workman under Section 33(C)(2) of the Industrial Disputes Act, 1947. It is undisputed that the amount as awarded by the Labour Court was deposited by the Respondent-Employer and has been withdrawn by the Applicant.

3. The only contention raised on behalf of the Applicant is that Income Tax Certificate towards deduction has not been furnished to him.

4. It appears that there is an intervening circumstance which needs to be noted at this stage. This Court had passed the following order on 17 November 2021.

“Respondent in person states that the amount which was deposited by the Petitioner before the Industrial Court has been withdrawn by him. The grievance is that he is not reinstated.

2. Learned counsel for the Petitioners states that a letter would be issued to the respondent asking him to report for duty at a particular place.

3. If such a letter is received by the respondent, the respondent shall report for duty within a period of one week from the receipt of such letter. All this would be without prejudice to the rights and contentions of the parties. The Petitioner is also directed to provide statutory documents, if any, like TDS certificate etc., to the respondent for the Income-Tax purpose.

4. List the petition for final hearing as per its turn.”

5. The learned counsel for the Respondent-Employer states that the letter as referred in paragraph No.2 of the order was issued to the Applicant and the Applicant was reinstated after which a departmental enquiry was held against him and he has been terminated by a letter dated 28 February 2022. The Applicant is challenging the said order of termination in the present Application.

6. I have heard the Applicant who appears in person and the learned counsel for the Respondent-Employer.

7. As noticed earlier the Applicant has raised a contention about non-issuance of the certificate towards the Tax Deducted at Source when the amount as awarded under Section 33(C)(2) of the said act was deposited. In this regard the learned

counsel for the Respondent states that there was no Tax Deducted while depositing the said amount. He however, submits that he will ascertain and in the event any deduction is made the appropriate certificate shall be furnished to the Applicant within a period of four weeks.

8. Secondly, the Applicant is seeking reinstatement after the Applicant has been allegedly terminated by letter dated 28 February 2022. In this regard it is necessary to note that WP No.48 of 2020 is filed by the Respondent-Employer challenging the order under Section 33(C)(2) of the said Act. Thus, the relief of reinstatement cannot be granted to the Applicant on the basis of an Application that too in the Petition filed by the Respondent-Employer. The Application is disposed of.

Needless to mention that the Applicant is at liberty to take recourse to the appropriate remedy, if any, available in law against the said order of termination and if no advised.

C.V. BHADANG, J.