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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1422 OF 2008

Jivaji S. Ghadi	}	
Age : 48 years,	}	
Dhokali Kolshet Road, Sandoz. Baugh,	}	
P.O. Manpada, Thane.	}	... Petitioner

Versus

M/s. Grovers Pvt. Ltd.	}	
Near Power Sub-Station, Kolshet Road, Thane.	}	... Respondent

Mr. Sanjay Sanghvi, Senior Advocate i/b Mr. Rahil Fazalbhoy for Petitioner.

Mr. Anand R. Pai i/b Mr. Pratik Kothari for Respondent.

CORAM :- SANDEEP V. MARNE, J.

RESERVED ON :- 03 NOVEMBER, 2023

PRONOUNCED ON :- 09 NOVEMBER, 2023

P.C. :

1. Petitioner has filed this petition challenging the Judgment and Order dated 31 October 2007 passed by the Industrial Court, Thane in Revision Application (ULP) No.41 of 2004. By that order, Industrial Court has allowed the Revision filed by the Respondent-employer and has set aside the Labour Court's order dated 29 March 2004 passed in Complaint (ULP) No.549 of 1997. The Labour Court had allowed the complaint filed by the Petitioner and had directed his reinstatement with full backwages and continuity of services on 4 November 1997.

2. Considering the order that I propose to pass, it is not necessary to narrate all the factual details. Suffice it to state that the Complaint (ULP)

No.459 of 1997 was instituted on behalf of four employees Shri. Surender Singh Rawat, Shri Gabbar Singh Bisht and Shri. Jivaji Shivram Ghadi, Shri. Illayya Rajesh. They were employed by the Respondent-employer allegedly for the chilling/refrigeration department. It was however their case that the scope of their duties were not restricted to chilling plant and that they performed various duties relating to other departments of the Respondent as well. Their services were terminated vide notices dated 04 November 1997 on the ground that no work was left in the Refrigeration department. Their services were accordingly retrenched by paying 1 months' notice pay, retrenchment compensation and other legal dues. The retrenchment notices dated 04 November 1997 were challenged by the 4 workmen before Labour Court, Thane by filing Complaint (ULP) no. 459 of 1997. However, it appears that out of the 4 workmen, Mr. Illayya Rajesh continued to work as unskilled workman in the fabrication shop of the Respondent and his services were apparently not retrenched. So far as the other 3 workers were concerned, during the pendency of their complaint before the Labour Court two of them viz. Shri Surender Singh Rawat and Shri Gabbar Singh Bisht accepted the settlement offered by the employer under which Surender Singh Rawat was offered amount of Rs.1,00,403.40/- and Gabbar Singh Bisht was offered amount of Rs. 1,17,654.45/-. Shri Surender Singh Rawat submitted letter dated 12 April 2002 to the employer accepting the settlement and agreed for deletion of their names in Complaint (ULP) no. 459 of 1997. Petitioner apparently did not accept the settlement offered to him and continued to pursue Complaint (ULP) no. 459 of 1997. The Labour Court proceeded to allow the complaint by Judgment and order dated 29 March 2004 *inter alia* holding that services of the Petitioner were wrongfully terminated. He was directed to be reinstated with full backwages. Employer filed Revision Petition no.41 of 2004 before Industrial Court, Thane which has allowed

the Revision by its Judgment and order dated 31 October 2007 by setting aside the Labour Court's order dated 29 March 2004. Petitioner has filed the present petition challenging the Industrial Court's order dated 31 October 2007.

3. I have heard Mr. Sanghvi, learned senior advocate appearing for Petitioner and Mr. Pai, the learned counsel appearing for the Respondent-employee.

4. From above narration of facts, it appears that two of the cohorts of Petitioner have settled the disputes with the employer of in the year 2002 by accepting compensation of Rs. 1,00,403.40/- and Rs.1,17,654.45/-. In that view of the matter, I have enquired with Mr. Pai as to whether the employer was willing to offer compensation to the Petitioner as full and final settlement. After taking instructions from his clients, Mr. Pai was fair in accepting the request of the Court and agreed to offer compensation to Petitioner. Mr. Sanghvi made earnest efforts to impress upon the Petitioner to accept the offer, *albeit* at an higher amount. However, unfortunately though the parties came quite close on the figure, the negotiations finally failed. While ordinarily Court would not refer to failed negotiations between parties, I feel it was necessary to do in the present case, especially in view of the fact that the other two employees have already accepted compensation in the year 2002. In that view of the matter, instead of deciding the merits of the Petition, Petitioner can also be paid a lumpsum compensation in lieu of reinstatement and backwages. Petitioner's age was shown as 38 years in Affidavit filed in the year 1997. By now, Petitioner is about 64 years of age. He could have continued in the employment only till the year 2018. The last pay drawn by him at the time of his retrenchment appears to be Rs. 161.37/- per day which was

sought to be approximately Rs.4841/- per month. Even if he is to be granted full backwages during 1997 to 2018, the total backwages would come to approximately Rs. 12,19,957/-. Mr. Sanghvi would contend that the backwages are required to be counted by taking into consideration the increase in the wages.

5. Considering the above position, in my view, ends of justice would meet if the Respondent is directed to pay to Petitioner a lumpsum compensation of Rs. 15,00,000/- in lieu of reinstatement and backwages.

6. The Writ Petition is accordingly disposed of by setting aside the order passed by the Industrial Court on 31 October 2007 as well as by the Labour Court on 29 March 2004. Respondent is directed to pay to the Petitioner a lumpsum compensation of Rs. 15,00,000/- within a period of 6 weeks from today. Petitioner shall not be entitled claim any other amount over and above the compensation so awarded.

7. With the above directions, the Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)