

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3342 OF 2021

M/s. Eric Apparel Pvt. Ltd.

...Petitioner

Versus

Akhil Bhartiya General Kamgar Union

...Respondents

...

Adv. D.S. Hatle a/w Adv. Rebecca Almeida for Petitioner.

Adv. Rita K. Joshi a/w Adv. Swapnil P. Kamble, for Respondents.

...

CORAM : SANDEEP V. MARNE, J.

DATE : SEPTEMBER 12, 2023.

P.C.:

1. By this Petition, Petitioner has challenged the Judgment and Award dated 14 February 2020 passed by the Labour Court in Reference (IDA) No.83 of 2013. By the award, the Labour Court has directed reinstatement of all eight Respondents. However, the relief of backwages is restricted only to the four Respondents.

2. On of the defences taken by Petitioner before the Labour Court was that the Respondents had resigned from services of Petitioner and that therefore there was no occasion for Petitioner to terminate their services. In

support of the defence of resignation, several documents were placed on record by Petitioner. Those documents included resignation letters, cash/debit vouchers and receipts, all three documents being allegedly signed by the concerned employees. The Labour Court has proceeded to reject those documents on the ground that the workmen denied their signatures on the said documents and the Petitioner could not prove before the Labour Court that the payments in respect of those documents were actually deposited in the accounts of the concerned workmen.

3. With the present Petition, Petitioner has placed on record copy of the bank statement showing various payments being made to the concerned employees. Prima facie it appears that the figures of payment in the said bank statement tally with the figures stated in the vouchers and receipts. It appears that the receipts show handing over of cheques to the concerned employees. To illustrate Mr.Umanand Mali was allegedly handed over cheque No.0082366 dated 12 April 2011 for amount of Rs.8,548/-. The said payment is shown to have been made consequent to resignation tendered by him on 5 March 2011. The bank statement contains an entry dated 15 April 2011 by which the said cheque bearing No.0082366 for Rs.8,548/- has been encashed. It is not that the amount has been directly credited by Petitioner in

the account of the employees concerned. Prima facie it appears that the employee concerned has collected the cheque and deposited the same in his bank account.

4. In the light of this position, the stand taken by the employees denying their signatures on the said documents will have to be examined.

5. It is therefore necessary that the case is remanded back to the Labour Court for being considered afresh by permitting Petitioner to place on record before the Labour Court the bank statement and other related documents. It would also be necessary to provide an opportunity to the Petitioner to lead additional evidence to prove those documents. Needless to say that the concerned workmen would also have opportunity to produce additional documents and lead additional evidence.

6. Accordingly the Writ Petition is partly allowed.

7. The Judgment and Award dated 14 February 2020 passed by Labour Court in Reference (IDA) No.83 of 2013 is set aside and the Reference (IDA) No.83 of 2013 is remanded to the Labour Court for being decided afresh after grant of opportunity to Petitioner and workmen to produce additional documents and to lead additional evidence.

8. Considering the position that the concerned workmen are not in service since the year 2011, it would be appropriate that the Labour Court decides the Reference (IDA) No.83 of 2013 afresh as expeditiously as possible preferably within a period of six months from today, without being influenced by the observations in this order.

9. By the earlier Award dated 14 February 2020, the Labour Court had directed to reinstatement of eight workmen while granting backwages to four of them. Depending upon the final outcome of the proceedings, the Labour Court shall also decide whether the concerned workmen are entitled to the relief of reinstatement as well as backwages. If reinstatement is denied, there would be no difficulty. However, if the Labour Court arrives at a conclusion that the workmen are entitled to relief of reinstatement, the Petitioner shall not question payment of backwages to the employees from 14 February 2020 which is the date of the previous Award since the matter is being remanded at the instance of the Petitioner.

10. With the above observations, the Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)