

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

WRIT PETITION NO.7917 OF 2018

(LAXMAN JAYRAM LABADE....VS.. EXECUTIVE ENGINEER, PUBLIC WORKS DEPT. & OTH.)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri Sagar Katkar, Advocate for Petitioner.
 Shri H.D.Dubey, A.G.P. for Respondent Nos.1 & 4.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 30, 2023.

1. Heard.

2. The learned Industrial Court while reversing the judgment of the Labour Court granting reinstatement to the petitioner, directed the respondents to pay compensation in lieu of the reinstatement. The said judgment and order dated 16/04/2015 passed by the Industrial Court in Revision ULP No.45 of 2013, is under challenge in this writ petition.

3. The learned Industrial Court, relying upon the judgment in the case of *Deepali Gundu Surwase ..vs.. Karnti Junior Adhyapak Mahavidyalaya (D.Ed.)*, reported in **2013(1) Bom LC 466 = (2013) 10 SCC 324**, has held that the complainant/petitioner was engaged on daily wages and worked for a very short period and he was not engaged on any sanctioned and vacant post. Thus, considering the length of service, the learned Industrial Court granted compensation in lieu of the reinstatement.

4. The Hon'ble Supreme Court of India in the case of *Tapash Kumar Paul ..vs.. BSNL & Anr.*, reported in **2015 ALL SCR 1063** has laid down justifiable grounds for denying the reinstatement, those are namely (i) where the industry is closed; (ii) where the employee has superannuated or going to retire shortly and no period of service is left to his credit; (iii) where the workman has been rendered incapacitated to discharge the duties and cannot be reinstated and/or (iv) when he has lost confidence of the Management to discharge duties.

5. Admittedly, on the date of decision of the Industrial Court the petitioner was at the verge of retirement and when this petition was filed he was 59 years old. Thus, there is no illegality committed by the learned Industrial Court in denying the reinstatement to the petitioner.

6. Now only the question remains about quantum of amount of compensation in lieu of reinstatement. The Industrial Court has granted Rs.25,000/- towards compensation. However, there is no discussion made by the Industrial Court to arrive at such amount.

7. The record shows that on the date of termination in the year 1991 the petitioner was receiving Rs.610/- per month as wages, that comes to Rs.7,200/- as

yearly wages. If the period from 1991 to 2015 i.e. the year till passing of the judgment by the Industrial Court is considered, it comes to about 24 years. If the period is multiplied with yearly wages, it comes to Rs.1,75,000/- as 100% back wages, which the petitioner was entitled to receive if the order of the Labour Court was not modified by the Industrial Court.

8. In the circumstances, the amount granted to the tune of Rs.25,000/- as compensation, according to me, is a meager amount and cannot be said that it is a fair amount granted by the Industrial Court towards compensation.

9. In the circumstances, considering the total amount of back wages, for which the petitioner was otherwise entitled, had he been reinstated with 100% back wages, I am of the opinion that the fair compensation would be Rs.75,000/- to be paid to the petitioner in lieu of the reinstatement. Accordingly, I pass the following order:

- i) The Writ Petition is partly allowed.
- ii) The impugned judgment and order dated 16/04/2015 passed by the Industrial Court is modified to the extent the amount of compensation and it is directed that the

respondent shall pay Rs.75,000/- towards compensation to the petitioner in lieu of reinstatement in service.

The Writ Petition is **disposed of** accordingly.
No order as to costs.

JUDGE

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