



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

Writ Petition No.5568 of 2023

Shri Sudhakar S/o Dharmaji Haste,

Aged about 57 years,

Occupation : Service,

R/o Naginabag, Chandrapur,

Tah. & Distt. Chandrapur.

... Petitioner

Versus

- 1. The State of Maharashtra,**
through the Principal Secretary,
Technical and Higher Education,
Mantralaya, Mumbai-01.
- 2. Desk/Section Officer,**
Technical and Higher Education,
Mantralaya, Mumbai-01.
- 3. The Director,**
Technical and Higher Education,
Dhobi Talao,
Mahyalika mark,
Mumbai-01.
- 4. The Joint Director,**
Technical Education, Sadar, Nagpur,
Tah. and Distt. Nagpur.
- 5. The Government College of Engineering,**
though its Principal,
Chandrapur,
Tah. & Distt. Chandrapur.

6. Shri M.M. Joshi,

Aged Major,
Occupation : Service,
Administrative Officer in
Technical Education Department,
Sadar, Nagpur,
Tah. and Distt. Nagpur.

7. Ku. Neha Omprakash Kamble,

Aged Major,
Occupation : Service,
In Government College of Engineering,
through its Principal, Chandrapur,
Tah. and Distt. Chandrapur.

... Respondents

Shri N.R. Saboo, Counsel for Petitioner.

Shri A.M. Deshpande, In-Charge Government Pleader for Respondent Nos.1 to 5.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : 29th AUGUST, 2023.

ORAL JUDGMENT (PER A.S. CHANDURKAR, J.) :

1. **Rule.** Shri A.M. Deshpande, learned In-charge Government Pleader, waives service of notice of hearing for the respondent Nos.1 to 5. The names of the respondent Nos.6 and 7 are permitted to be deleted from the array of parties. The necessary deletion be carried out. Rule is made returnable forthwith.

2. The petitioner, who was working as a Laboratory Assistant with the respondent No.5-College, was served with an order of termination dated 31-5-2018. Being aggrieved, the petitioner approached the Maharashtra Administrative Tribunal by filing Original Application No.448 of 2018. The Tribunal recorded a finding that it had no jurisdiction to

entertain the Original Application and that the petitioner ought to have approached the Labour Court for challenging the order of termination. However, the Tribunal further held that the order of termination was legal and proper and that it had no right to direct the absorption of the petitioner in the respondent No.5-College. The petitioner filed Review Petition No.13 of 2023 for review of the order passed by the Tribunal on the ground that the Tribunal having held that it had no jurisdiction to entertain the Original Application, the findings recorded by the Tribunal on the order of termination were liable to be set aside. The Review Petition has been dismissed by the Tribunal by holding that there is no error apparent on the face of the record. All these orders passed by the Tribunal are under challenge in the present writ petition.

3. Having heard Shri N.R. Saboo, learned counsel for the petitioner, and Shri A.M. Deshpande, learned In-charge Government Pleader for the respondent Nos.1 to 5, we find that initially the services of the petitioner were terminated on 30-4-2000. The petitioner approached the Labour Court by filing a complaint under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. That complaint was allowed by the Labour Court by setting aside the order of termination dated 30-4-2000 and directing reinstatement of the petitioner. Subsequently, again on 31-5-2018, the services of the petitioner were terminated by giving notice under Section 25F of the Industrial Disputes Act, 1947. Though the petitioner approached the Tribunal, it has been held that the petitioner ought to have approached the Labour Court for seeking redressal of his grievance. However, having

recorded that finding, it was not necessary for the Tribunal to have proceeded to hold that the order of termination dated 31-5-2018 was legal and proper. That finding was given without jurisdiction. When the Tribunal chose not to exercise jurisdiction, since the same was with the Labour Court, it was not justified in going into the merits of the challenge to the order of termination. The Review Petition preferred by the petitioner has also been dismissed by the Tribunal. We find that the Tribunal having held that it had no jurisdiction to entertain the challenge to the order of termination, it ought to have stopped at that without examining the merits of the matter. On this ground, the orders passed by the Tribunal are liable to be set aside. Hence, the following order is passed :

4. The writ petition is allowed. The judgment and order dated 13-3-2023 passed in Original Application No.448 of 2018 as well as the order dated 21-6-2023 passed in Review Petition No.13 of 2023 in Original Application No.448 of 2018 by the Maharashtra Administrative Tribunal are set aside. The petitioner is at liberty to challenge the order of termination dated 31-5-2018 by approaching the Labour Court in accordance with law.

5. Rule is made absolute in the aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)