

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

WRIT PETITION NO.1044 OF 2018

(GIRDHAR WASUDEO SONAR...VS.. DEPUTY DIRECTOR OF HORTICULTURE, AMRAVATI &
OTH.)

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

Court's or Judge's orders

Shri N.R.Saboo, Advocate for Petitioner.
Shri D.P.Thakre, A.G.P. for Respondent Nos. 1 to 3.

CORAM : ANIL S. KILOR, J.
DATED : JANUARY 23, 2023.

1. Heard.

2. In the present writ petition challenge is raised to the judgment and order passed by the Industrial Court dated 26/10/2017 in Revision (ULP) No.39 of 2013, quashing and setting aside the judgment and order dated 28/06/2013 passed in Complaint (ULP) No.77 of 1999 and thereby remanding the matter back to the Labour Court to decide the Complaint (ULP) No. 77 of 1999 afresh after considering the entire material on record and after opportunity of argument to both parties according to law.

3. The learned Industrial Court while passing the above order has recorded reasons in paragraph No.10 for the remand, which reads thus:

“10.After careful perusal of the Records and Proceedings of Com.ULP-No.77/ 1999 it is seen that the Labour Court has

not properly appreciated the entire record and only on the adverse inference granted the relief. It may be fact that entire documents are not produced on the record, but the matter of fact is that Muster Roll of the last preceding year is on record, from which, the Court could have verify whether complainants had completed 240 days. Moreover, it is specific stand of the respondents that the complainants services not terminated and this Point is not properly considered by the labour Court. Therefore, I am of the view that the matter is needs to be remanded back to decide the complaint afresh after hearing both parties. There are certain material on record, but this material evidence and documents is ignored by the Judge, Labour Court while deciding the complaint. Hence, matter is required to be remanded back to the Labour Court to consider the material and decide the complaint after hearing both parties. ...”

4. The learned counsel for the petitioner submits that the fact that the employer in its oral evidence has admitted that the junior employees were retained and the notices for joining services by the petitioner and other senior employees were pasted on the notice board, is sufficient to hold against the employer as far as issue of retrenchment is concerned and therefore, to that extent remand order is erroneous.

5. On the other hand, the learned Additional Government Pleader points out that on both the issues i.e.

on the issue of 25-F and 25-G the Court has remanded the matter back to consider the entire documents afresh and no error is committed by the Court.

6. After going through the reasons recorded by the learned Industrial Court, I am of the opinion that no prejudice would be caused to the petitioner because of remand. On the contrary, because of filing of the present petition the proceeding was delayed, which otherwise would have been decided by the Labour Court by now, as the impugned judgment and order is dated 26/10/2017 and in the order the parties were directed to remain present before the Labour Court on 10/11/2017.

7. In the circumstances, I do not find any error committed by the learned Industrial Court. However, as the matter is old, I am of the opinion that the complaint pending before the Labour Court after remand, needs to be expedited. Accordingly, I pass the following order:

- i) The writ petition is **dismissed**. No order as to costs.
- ii) The Labour Court is directed to decide Compliant (ULP) No.77 of 1999 expeditiously and in any case on or before 31st July 2023, after hearing both the parties.

- iii) Both the parties are directed to remain present before the Labour Court on 06/02/2023.

JUDGE

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