

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

WRIT PETITION NO. 1254 OF 2018

Shri Dhanraj S/o Shrawan Sathawane,
Aged about 51 years, Occ. Head
Master
R/o Matru Smruti Nagar, Near House
of Shri Vaidya, Bhandara Tq. & Dist.
Bhandara

...Petitioner

// VERSUS //

1. Smt. Ashabai Lalit Gharde
Aged about Major, Occ. Service,
R/o Khokarla, Tq. & Dist. Bhandara
2. The Naib Tahsildar,
Civil Lines, Bhandara

... Respondents

Shri Subhash Kalbande, Advocate for the petitioner.
Shri Bharat C. Chandrakapure, Advocate for the respondent no. 1.
Shri Deepak Thakare, AGP for the respondent no.2/State.

CORAM : ANIL S. KILOR, J.

DATED : 27th FEBRUARY, 2023.

ORAL JUDGMENT :

Heard. Rule. Rule made returnable forthwith heard finally by
consent of the parties.

2. The award dated 1st September, 2015, passed by the Labour Court in a Reference (IDA) No. 84 of 2012 under the Industrial Dispute Act, 1947 (in short referred as 'Act, 1947') directing the petitioner to reinstate the respondent with continuity of service with back wages with effect from 1st August, 2020, is under challenge.

3. After going through the record, it is evident that the petitioner was not made a party to the reference as Head of the school but he was made party in his personal capacity. Moreover, admittedly the petitioner is not the appointing authority, even as a Headmaster of the school.

4. Furthermore, undisputedly the employer i.e Zilla Parishad was not the party to the reference. In absence of employer as a party, the relief sought by the respondent against the Headmaster is not maintainable. This aspect has not been considered and dealt with by the Labour Court while dealing with the reference.

5. In the circumstances, I am of the opinion that as the matter relates to termination of the respondent no.1 as a cook in Shaleya Poshan Aahar Yojana and as nothing has been pointed out that the petitioner is an employer against whom the award is passed, I am of the opinion that the impugned award needs to be quashed and set a side for the reasons recorded herein above.

6. At this stage, learned counsel for the respondent employee prays for remand of the matter and to grant sufficient opportunity including to make the necessary party, to agitate his grievances. In the circumstances, I pass the following order.

i. The writ petition is partly allowed;

ii. The award dated 1st September, 2015 passed by the Labour Court, Bhandara in Reference (IDA) No. 84 of 2012 is hereby quashed and set aside;

iii. The matter is remanded back to the Labour Court to decide the reference afresh after giving sufficient opportunity to both the parties as prayed for in accordance with law.

[ANIL S. KILOR, J.]

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