

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.722 OF 2002

Anil Rajaram Atugade

.... *Petitioner*

V/s.

Executive Engineer, Kanher &
Dhom Hydroelectric Division,
Vennanagar and Ors.

....*Respondents*

Mr. M.S. Topkar *with Ms. Pavitra Manesh for the Petitioner.*

Mrs. Vaishali S. Nimbalkar, *AGP for Respondent -State.*

CORAM : SANDEEP V. MARNE, J.

DATED : 28 November 2024.

P.C.:

1) The Petition challenges judgment and order dated 11 December 2001 passed by the Member, Industrial Court, Satara, allowing Revision Application preferred by the Respondent Nos.1 and 2 and setting aside the judgment and order dated 1 June 2001 passed by the Labour Court, Satara. The Labour Court had held that the termination notice issued by Respondent Nos.1 and 2 to the Portioner was illegal on account of failure to follow provisions of Section 25G of the Industrial Disputes Act, 1947 (**ID Act**). Therefore, though the termination was preceded by one month's

notice as well as retrenchment compensation, the Labour Court proceeded to set aside the termination notice and directed Respondents not to terminate the services of Petitioner without following the due process of law, especially the provisions of Section 25G of the ID Act. Since the Industrial Court has reversed the order of the Labour Court, Petitioner has filed the present Petition.

2) I have heard Mr. Topkar, the learned counsel appearing for the Petitioner and Mrs. Nimbalkar, the learned AGP appearing for Respondent Nos.1 and 2 and have gone through the findings recorded by the Labour and Industrial Courts in their respective judgments and also through the records of the case.

3) It appears that Petitioner was appointed as a *Khansama* in the Engineering Guest House temporarily for a period of six months and that the Guest House was being operated till execution of the project in question. There is nothing on record to indicate that there were other persons employed as *Khansama* in the said Guest House. Engagement of the Petitioner was specifically at the said establishment/Guest House. In absence of any other person being employed as *Khansama* at the Guest House, there was no question of maintenance of any seniority. It is not Petitioner's case that any other junior *Khansama* was retained in service while terminating him. In my view therefore, Labour Court had grossly erred in setting aside the termination notice on the ground of violation of provisions of Section 25G of the ID Act. The Industrial Court has rightly considered the position that the electricity

generation project was undertaken in accordance with the agreement executed between Respondent Nos.1 and 2 and Bharat Heavy Electricals Ltd. (**BHEL**) and that after the construction project got over, the same was handed over to Maharashtra State Electricity Board (**MSEB**). Termination of Petitioner was required to be effected since the project itself got closed and there was no necessity of operating guest house for the said project. In such circumstances, there was no question of maintenance of any seniority list of persons working as *Khansama*. Apparently, Petitioner was a solitary person engaged on the post of *Khansama* at the relevant time. Without even conducting enquiry as to whether any other person worked as *Khansama*, the Labour Court erroneously held that there was violation of provisions of Section 25G of the ID Act. The Industrial Court has rightly set aside order passed by the Labour Court. I am unable to trace any patent error in the impugned order passed by the Industrial Court.

4) Writ Petition is devoid of merits, and it is accordingly **dismissed**. Rule is discharged.

[SANDEEP V. MARNE, J.]