

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

WRIT PETITION NO. 6541 OF 2008

Kolhapur Gas Service

... **Petitioner**

Versus

Shamrao Dadu Patil

... **Respondent**

Mr. M. S. Topkar *a/w Ms. Pavitra Manesh for Petitioner.*

Mr. Dheeraj Patil *for Respondent.*

CORAM : SANDEEP V. MARNE, J.

DATE : 5 SEPTEMBER 2024.

P.C. :

1) By this Petition Petitioner has challenged Award dated 21 April 2008 passed by Presiding Officer, Labour Court, Kolhapur in Reference (IDA) No. 236 of 2002. The Labour Court has observed that since Respondent was reinstated in service from 27 January 2004, there was no necessity for passing order for reinstatement in service. The Labour Court has however directed payment of backwages for the period from 5 June 1999 to 26 January 2004, which is why the Petitioner-Employer has filed the present Petition.

2) The Petition has been admitted by this Court by order dated 8 April 2009, by which the direction for payment of backwages was stayed. Since Respondent was reinstated on 27 January 2004, he apparently continued working during pendency of the present Petition and has retired from service. Now the only issue that remains to be considered is about correctness of order directing backwages from 5 June 1999 to 26 January 2004.

3) I have heard Mr. Topkar, the learned counsel appearing for Petitioner-Employer and Mr. Patil, the learned counsel appearing for Respondent-Workmen.

4) After having considered the submissions canvassed by the learned counsel appearing for parties, it appears that though Respondent claims to be terminated on 5 June 1999, apparently no steps were taken with regard to the alleged termination till April 2002, when he raised a demand which led to making of Reference by the Appropriate Government to the Labour Court. In that view of the matter, there is no question of payment of any backwages to the Respondent during a period from 5 June 1999 till March 2002.

5) So far as the period after April 2002 to 26 January 2004, it appears that there is no valid reason for award of full backwages during the said period. It was the case of Petitioner-Employer that Respondent was never terminated and that he voluntarily stopped coming to duties. It is a matter of fact that for a period of more than 3 years from 5 June 1999 to April 2002, the Respondent was missing

from the scene. The Respondent has fairly reinstated the workman on 27 January 2004. Considering the facts and circumstance of the present case, ends of justice would meet if Respondent is awarded 50% backwages during the period from April 2002 to 26 January 2004.

6) Accordingly, the petition partly succeeds. Award dated 21 April 2008 passed by Presiding Officer, Labour Court, Kolhapur in Reference (IDA) No. 236 of 2002 shall stand modified to the extent that the Respondent shall be entitled to payment of 50% backwages for the period from April 2002 to 26 January 2004. The amount of such backwages shall be paid by Petitioner to Respondent within a period of two months from today.

7) With the above directions, the Writ Petition is partly allowed. Rule is made absolute. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]