

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7698 OF 2007

Jalandar Ganpati Kamble Thr. LRS.

Smt. Pavitra Jalandar Kamble & Anr.

... **Petitioners**

Versus

Warna Sahakari Dudh Utpadak

Prakriya Sangh Ltd. & Anr.

... **Respondents**

Mr. Subhash V. Gutte for the Petitioners.

Mr. Nilesh Desai i/b Mr. Suresh S. Pakale for the Respondents.

CORAM : SANDEEP V. MARNE, J.

DATE : 1 AUGUST 2024.

P.C. :

1) The challenge in the present Petition is to the Award dated 7 April 2007 passed by Presiding Officer, Labour Court, Kolhapur by which the reference is answered in the negative. Petitioner was aggrieved by acceptance of his resignation and his relieving from services and contended before the Labour Court, that he had never tendered the resignation. The Labour Court however, refused to grant any relief in the reference except holding that his resignation could not be shown to have been retrospectively from 26 April 1997, when the same was actually accepted on 19 August 1998.

Therefore, the Labour Court has directed payment of wages for the period from 26 April 1997 to 19 August 1998.

2) I have heard Mr. Gutte, the learned counsel appearing for the Petitioners and Mr. Desai, the learned counsel appearing for Respondent-Employer.

3) After having considered the submissions of the learned counsel appearing for parties, it appears that the main thrust of the Petitioner before the Labour Court as well as before this Court is about total denial in respect of submission of resignation letter. It is contended that the resignation letter does not bear any date. That there was absolutely no reason for Petitioner to tender his resignation. That a false endorsement is shown to have been made on the resignation letter about alleged absence of the Petitioner, which is factually incorrect.

4) However, the Labour Court has recorded a finding of fact that the Petitioner indeed submitted the resignation letter. The Labour Court has relied upon the Affidavit filed by Petitioner before Conciliation Officer, in which he did not deny his signature on the resignation letter. However, he adopted a defence that signature was put by him on blank paper which might have been misused for preparation of the resignation letter. However, in the Statement of Claim, no such contention was raised by the Petitioner. The Labour Court also considered the fact that after 26 April 1997, Petitioner never reported for duties. The Labour Court also considered service of letter dated 7 September 1998 relieving Petitioner from service. After considering

the above factors, the Labour Court has drawn an inference that the Petitioner did submit the resignation letter. The above findings recorded by the Labour Court, based on evidence on record, cannot be said to be suffering from the vice of perversity so as to warrant interference by this Court in exercise of jurisdiction under Article 227 of the Constitution of India. I therefore do not find any palpable error in the order passed by the Labour Court.

5) So far as the irregularity of retrospectively accepting the resignation from 26 April 1997, the Labour Court has already granted relief in favour of Petitioner by directing the Respondent to pay wages from 26 April 1997 to 19 August 1998. By Order dated 26 September 2023, this Court had directed Respondents to file an affidavit giving details of payments due to the Petitioner in pursuance of the impugned award. Accordingly, Respondents have filed Affidavit dated 7 September 2023 stating that amount of Rs.38,251/- is due and payable by them to the Petitioner towards implementation of the impugned award. The said amount of Rs.38,251/- is computed by taking into consideration gross monthly wages of Rs.2,425/-. Mr. Gutte would submit that the last drawn salary of the Petitioner was Rs.2,700/-. However, no salary slip is produced by Petitioner in support of his contention. In that view of the matter, this Court is not expected to go into the correctness of computation made by the Respondent-Employer. The only aspect is that this amount of Rs.38,251/- was due and payable by Respondents to Petitioner on 7 April 2007. It appears that the said amount is still not paid by the Respondents. In that view of the matter, the amount of

Rs.38,251/- shall carry simple interest at the rate of 8% per annum from 7 April 2007 till the date of actual payment.

6) I accordingly proceed to pass the following order:

i) The Award dated 7 April 2007 passed by the Labour Court, Kolhapur is not disturbed and to that extent the Petition is dismissed.

ii) However, Respondents are directed to pay the amount of Rs.38,251/- towards wages from 26 April 1997 to 19 August 1998 alongwith simple interest at the rate of 8% per annum from 7 April 2007 till the date of payment within a period of four weeks from today.

7) With the above observations, the Writ Petition is disposed of. There shall be no orders as to costs.

[SANDEEP V. MARNE, J.]