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

WRIT PETITION NO.4577 OF 2018

Vasant Raghunath Dandekar

... Petitioner

V/s.

M/s. Walson Machine Pvt. Ltd.

... Respondent

Ms. Gayatri Singh, Sr. Advocate a/w Mr. Benny Davidson i/by Vishal Jadhav, for Petitioner.

Mr. Kiran S. Bapat, Sr. Advocate a/w Mr. Gaurav S. Gawande i/by Mr. Prashant Bhat, for Respondents.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 1, 2024

P.C.:

1. The petitioner is challenging the order passed by the Revisional Court dismissing Complaint (ULP) No.108 of 2012 filed by the petitioner under Section 28 (1) read with Item 1 Clauses (a), (b), (c), (d) and (f) of Schedule IV of the Maharashtra Recognition of Trade Union & Prevention of Unfair Labour Practices Act, 1971.

2. According to the petitioner, he was appointed on 8 February 1997 as Operator of Thread Grinder cum Separator in respondent company. On 29 August 2012, the respondent orally terminated

the services of the petitioner without paying legal dues. On 15 October 2012, the petitioner filed Complaint (ULP) No.108 of 2012 before the Labour Court, Pune. The respondent raised a defence that the petitioner retired on 29 August 2012. He accepted the cheque of Rs.26,684/- towards full and final settlement and, therefore, complaint is liable to be dismissed.

3. The Labour Court recorded a finding that the petitioner was entitled to continue till closure of company. The Labour Court also recorded a finding that the model standing orders were not applicable to the respondent company and, therefore, the petitioner was entitled to full back wages till the date of closure of the company i.e. till 30 October 2014.

4. The respondent No.1 challenged the judgment and order of Labour Court directing back wages and consequential benefits till the date of retirement. The petitioner also challenged the order of Labour Court on the ground of refusal of relief of reinstatement and full back wages. The Revisional Court by the impugned order allowed the revision of the respondent; however, dismissed the revision of petitioner. Hence, the petitioner has filed present writ petition.

5. Learned Senior Advocate for the petitioner invited my attention to the order of appointment, the communication dated 12 September 2012 and evidence led on behalf of the petitioner to urge that the model standing orders were inapplicable to respondent company as the respondent employees less than 10

workers. She also submitted that the age of retirement ought to have been considered till he was physically fit to work, in absence of agreement between employer and employee to that effect. She, therefore, submitted that termination of petitioner's services by the respondent company would amount to unfair labour practice and, therefore, the petitioner was entitled for reinstatement along with full back wages.

6. Per contra, learned senior Advocate for the respondent invited my attention to paragraph 8 of the written statement and cross-examination of petitioner to urge that the respondent had proved before the Labour Court that the petitioner was felicitated on 29 August 2012 and was paid cheque of Rs.26,864/- full and final settlement which was accepted by the petitioner which leads to the inference that there was no illegal termination and the petitioner accepted his retirement.

7. On perusal of the cross-examination of petitioner, it appears that the petitioner accepted in the cross-examination that he was felicitated on 29 August 2012 on the occasion of his retirement and the Director of company handed over cheque of Rs.26,864/- to the petitioner, which he accepted. He also admitted from the date of said felicitation till 31 August 2012, he did not attend the work. Admission referred above leads the irresistible inference that petitioner's services were not terminated on 29 August 2012. He retired on the said date, which fact he accepted in the cross-examination. Since, the respondent has proved acceptance of retirement by the petitioner, the complaint on the ground of

illegal termination has been rightly dismissed by the Revisional Court. However, in so far as the legal dues of the petitioner or any other statutory dues, if any, and if required to be paid by the employer are concerned, it will be open for the petitioner to adopt all such remedies as are available in law for recovery such legal/statutory dues.

8. With this clarification, the writ petition stands dismissed.

(AMIT BORKAR, J.)