

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

WRIT PETITION NO. 11407 OF 2019

Pandit Narayan Bankar
At Post. Narayangaon, Tal. Junnar,
District – Pune.

.. Petitioner

Versus

Oniv Beverages Private Limited
At Post Yedgaon, Tal. Junnar,
District – Pune, Maharashtra

.. Respondent

**WITH
WRIT PETITION NO. 11408 OF 2019**

Nandkumar Jijaba Awate
At Post. Narayangaon (Kolhemala)
Tal. Junnar, District – Pune.

.. Petitioner

Versus

Oniv Beverages Private Limited
At Post Yedgaon, Tal. Junnar,
District – Pune, Maharashtra

.. Respondent

**WITH
WRIT PETITION NO. 11409 OF 2019**

Dinkar Chandrabhan Muthe
At Muthewadgaon, Post Malwadgaon,
Tal. Shrirampur, District – Ahmednagar.

.. Petitioner

Versus

Oniv Beverages Private Limited
At Post Yedgaon, Tal. Junnar,
District – Pune, Maharashtra

.. Respondent

**WITH
WRIT PETITION NO. 8606 OF 2019**

Ramkrishna Ganpat Ghone
At Post. Pimpalvandi, Tal. Junnar,
District – Pune.

.. Petitioner

Versus

Oniv Beverages Private Limited
At Post Yedgaon, Tal. Junnar,
District – Pune, Maharashtra

.. Respondent

...

Mr. Prashant Chandrakant Kamble for the Petitioners.
Mr. Melvyn Fernandes, a/w. Arnab Roy a/w. Supriya Majumdar,
a/w. Saurabhsai Ganesan, i/b. Vaish Associates, for the Respondent.

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CORAM: SANDEEP V. MARNE, J.

DATE : 23rd FEBRUARY, 2024.

ORAL JUDGMENT:-

1. Petitioners challenge Order dated 15th November, 2018 passed by the Presiding Officer, Labour Court No.2, Pune, rejecting the References on the ground of offer of alternate employment made to them by the employer.

2. It appears that the Petitioners were in employment of M/s. Champagne Vineyards Ltd. On 9th July, 2003, their service were terminated with an offer to them to join services with IDC Ltd. At the

instance of the Petitioners, References were made to the Labour Court regarding their termination. However, by the impugned order, the Labour Court has held the References to be not maintainable by recording a finding that Petitioners were offered alternate employment, which were not accepted by them.

3. I have heard Mr. Kamble, the learned counsel appearing for the Petitioners. I have also heard Mr. Fernandes, the learned counsel for the Respondent-Oniv Beverages Pvt. Ltd., who is impleaded as Respondent in place of the original employer M/s. Champagne India/Indage Ltd.

4. Perusal of the Awards passed by the Labour Court would indicate that the References are not held maintainable only on account of offers made to Petitioners to join employment with IDC Ltd.

5. Mr. Kamble would contend that no such offer was actually made. That the services of the Petitioners are terminated on account of dispute about the amount of DA variable which was illegally reduced from Rs.312 per month to Rs.126 in December, 2002. That Petitioners raised grievance about reduction of DA variable which became the actual cause for termination of their services on 9th July, 2003. That, the plea taken by the employer about stoppage of manufacturing activities was false as the company kept on running business long after termination of services of the Petitioners.

6. I have gone through the letters dated 9th July, 2003, by which, the services of the Petitioners were terminated. The letter reads thus:

Date: 9. 7. 2003
Narayangaon
Outward No. CVL/2003/169

To,
Mr. R. G. Ghone

This is to advise you that your services are no longer required by the Company. You are therefore called upon to consider this as a letter of termination of services with effect from today.

Your account will be settled forthwith. You are called upon to meet with the manager to receive your dues on any working days after 7 days.

We take this opportunity to wish you all the best for your future.

Should you need any alternative job, we understand that IDC Limited will have a suitable job for you. You are requested to contact Mr. U.N. Tidke or Phone No. 9820094076 for any further assistance in this regard. We have requested Mr. Tidke to ensure that all your present earnings are protected while offering the job. He may like to appoint you with immediate effect. However, this opportunity will be available only over the next 14 days

With regards,

Dr. A. S. Deokate,
signed
Corporate Manager
CVL, Narayangaon,

C.C.
To,
1) Mr. U. N. Tidke,
(MD. IDC Ltd.)

2) Mr. Arun Shah
(MD, CVL)

3) Mr. D. S. Pradhan
(Vice President CVL)

7. The employer came up with a specific case before the Labour Court that Petitioners were offered alternate employment with IDC Ltd. In the Statement of Claim, Petitioners maintained silence about the offer made about alternate employment. Though letters dated 9th July, 2003 specifically called upon Petitioners to contact Mr. U. N. Tidke of IDC Ltd., by providing his phone numbers, there is no averments in the entire Statement of Claim to whether Petitioners made any efforts to contact Mr. Tikde of IDC Ltd. In the cross-examination, Petitioners admitted that alternate job was offered to them with IDC Ltd. Far from raising any plea about approaching IDC Ltd for alternate job, Petitioners deposed in their Affidavit of Examination in Chief that after termination letter, they kept on visiting their original employer M/s. Champagne Vineyards Ltd and that they were not allowed to resume duty. Thus, the statement of claim read with the Affidavit of Evidence clearly shows that no attempt was made by Petitioners to approach IDC Ltd for joining its services. Petitioners have admitted in the cross-examination that the alternate job was indeed offered to them by IDC Ltd. The plea subsequently raised about IDC Ltd not providing any job to them is not supported either by pleadings or evidence on record.

8. In my view, therefore, no serious infirmity can be traced in the order of the Labour Court in holding that the employer did offer alternate employment to the Petitioners with IDC Ltd.

9. Mr. Kamble would invite my attention to the Award passed by the Labour Court on the same day i.e. on 15th November, 2018 in the case of a co-worker Mr. Rohidas Maruti Badhe. I have gone through the Award in the case of Rohidas Maruti Badhe. Though the circumstances are identical, the Labour Court proceeded to reject the theory of alternate employment in the case of Rohidas Maruti Badhe on the ground that the envelope containing the letter dated 4th August, 2023 was not served on Shri Badhe and that no attempt was made to open the said letter during the course of cross-examination. Without going into the issue of correctness of findings recorded by the Labour Court in the case of Rohidas Maruti Badhe, I am of the view that the said order does not have any impact on the orders passed by the Labour Court in case of four Petitioners. In case of four Petitioners, there is a specific admission on record that alternate employment was offered to them by the employer M/s. Champagne Vineyards Ltd. The Award in the case of Rohidas Maruti Badhe appears to have been passed after holding that the employer was unable to prove offering of alternate employment to him. In the present case, there is specific admission on the part of the Petitioners about offer of such alternate employment.

10. It appears that the company M/s. Champagne Vineyards Ltd (changed name of Indage Vinters Ltd.) has gone in liquidation. In

my view, therefore, no purpose would be served in calling upon the Labour Court to entertain References made at the behest of the Petitioners. I, therefore, do not find any valid reason to interfere in the orders passed by the Labour Court.

11. Writ Petitions are devoid of merit and rejected without any order as to costs.

SANDEEP V. MARNE, J.