

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

WRIT PETITION NO.2133 OF 2001

The Dean, B.J. Medical College and
Anr.

...Petitioners

Versus

Arun Jagannath Mandwekar

...Respondent

...

Mrs. V.S. Nimbalkar, AGP for the Petitioners.

Mr. Sanjay Kshirsagar for the Respondent.

*Mr. Vishal Thorat with Mr. Rahul Kedare from B.J. Medical
College, Pune, present.*

CORAM : SANDEEP V. MARNE, J.

DATED : 25 APRIL 2024.

PC:

1. The challenge in the petition is to the Award dated 8 August 2000 passed by the Presiding Officer, II Labour Court, Pune, in Reference IDA No.76 of 1995. By the impugned Award the Labour Court has allowed the Reference and has directed the Petitioners to reinstate the Respondent with full backwages and continuity in service w.e.f. 24 October 1990 on the basis of his last drawn wages.

2. By order dated 24 April 2001 this Court admitted the petition and declined stay on direction for reinstatement. This

Court however, stayed backwages to the extent of 50% directing the Petitioners to pay balance 50% backwages within 8 weeks. It is common ground that on account of this Court not granting stay on reinstatement, Respondent was reinstated in service and continued to work with the Petitioners.

3. Mrs. Nimbalkar, learned AGP would strenuously submits that B.J. Medical College is not an industry and therefore the Reference itself was not maintainable. In my view, since the Award is partly implemented by reinstating the Respondent in service, it is not necessary to determine correctness of the Award at this belated stage after passing of 24 long years. The reinstatement of the Respondent is obviously in his temporary /Badli capacity.

4. This leaves the issue of payment of backwages, from the date of termination till the date on which he has been reinstated. This Court had already directed Petitioners to pay 50% backwages to the Respondent while admitting the petition. The Respondent is not a permanent employee of the Petitioner Establishment. In that view of the matter, he did not have any indefeasible right to continue in the service. In that view of the matter, Award of 100% backwages by the Labour Court to Respondent was clearly unwarranted. In my view therefore, the backwages payable to the Respondent are required to be restricted to 50%.

5. Considering the fact that the Respondent has already been reinstated pursuant to Award dated 8 August 2000, no purpose would be served in determining the correctness of direction for reinstatement. The Award is however interfered with so far as the payment of 100% backwages is concerned.

6. The Writ Petition is accordingly disposed of by modifying the Award dated 8 August 2000 by directing that Respondent shall be entitled to only 50% backwages from the date of termination till the date of reinstatement. With the above directions the Writ Petition is disposed of. Rule is made partly absolute.

[SANDEEP V. MARNE, J.]