IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.14995 OF 2023
IN
FIRST APPEAL NO.852 OF 2023

Barclays Global Service Private Limited
(Formerly known as Barclays Technology
Centre India Private Limited) ….Applicant.

In the matter between

Barclays Global Service Private Limited
(Formerly known as Barclays Technology
Centre India Private Limited) …. Appellant.

V/s

Atul Gopal Gupta and Others …. Respondents.

Mr. A.S. Khandeparkar, Sr. Advocate a/w Mr. P. G. Sabnis for Applicant/Appellant.

Mr. Manoj Wad a/w Mr. Prabhakar Jadhav & Mr. Pankajsingh A. Pardeshi for Respondent No.1.

CORAM: A.S. CHANDURKAR &
JITENDRA JAIN, JJ.

DATE: 19th JANUARY, 2024

P.C.:-

1] This Interim Application has been preferred by the original Defendant No.1 in Special Civil Suit No.428 of 2020 seeking stay of the judgment and decree as passed in the said suit on 28/03/2023. The original Defendant is the Appellant in First Appeal No.852 of 2023.

2] The Respondent - original Plaintiff came to be appointed on the post of Head, RTB-IB, Technology India as Director. The appointment was in terms of the offer letter dated 29/10/2014. It is the case of the Plaintiff that during the course of his engagement, he noticed certain unethical practices going on and hence he sought to raise a concern about the same on 30/09/2019. On the aforesaid basis, an inquiry was stated to be held. It is the case of Plaintiff that as a fallout of the steps taken by him of raising concerns, he was issued a notice on 15/11/2019 stating therein that his services were rendered redundant. On that premise, the Plaintiff states that his name came to be deleted from the records of Defendant No.1- Company. On 04/02/2020 the Plaintiff received a communication addressed by the Defendant No.2 stating therein that his services were no longer required having been treated as redundant. The Plaintiff therefore on 18/02/2020 filed Special Civil Suit No.428 of 2020, seeking a declaration that communication dated 04/02/2020 was illegal and malafide. He prayed for his reinstatement on the position held by him and also claimed compensation of Rs 8,80,00,000/- alongwith damages of

Rs 1,20,00,000/- with interest.

3] The Trial Court by its judgment dated 28/03/2023 has partly decreed the suit. While refusing to grant relief of reinstating the Plaintiff, damages as well as compensation totaling an amount of Rs 96 lakhs with simple interest have been awarded to the Plaintiff. The Plaintiff as well as the Defendant No.1 have preferred separate appeals challenging that part of the relief that stands refused/granted by the Trial Court. Both the appeals have been admitted on 20/10/2023.

4] We have heard the learned Senior Advocate for the Defendant No.1 as well as the learned Counsel appearing for the Plaintiff. According to the learned Senior Advocate for the Defendant No.1, the Trial Court completely misdirected itself in proceeding to hold the Plaintiff entitled to compensation as well as damages. It was urged that in terms of the engagement of the Plaintiff and especially Clause-16 of the terms of employment-Exhibit-65 the Plaintiff had been paid three months' salary and hence nothing further was liable to be paid. The notice of termination dated 04/02/2020-Exhibit-78 validly dispensed with services of the Plaintiff. Reliance in that regard was sought to be placed on the decision in **AIR 1958 SC 12** (*S.S. Shetty vs. Bharat Nidhi Ltd*), **2012 SCC OnLine Del 4019** (*Shri L.M. Khosla vs. Thai Airways International Public Company Limited and Anr.*) and **(2015) 224 DLT 586** (*Shri Naresh Kumar vs. Shri Hiroshi Maniwa & Ors.*) to urge that in terms of engagement, the Plaintiff was not entitled to any relief whatsoever except Clause-16 of Exhibit-65.

On the other hand, according to the learned Counsel for the Plaintiff, the Trial Court had recorded a specific finding that it was only the Plaintiff who had been treated as redundant while dispensing with his services. The notice of termination dated 04/02/2020 had been issued in breach of the whistle blower policy and therefore the Trial Court was justified in proceeding to grant compensation to the Plaintiff. Reference was made to the deposition of D.W. 1 – Exhibit-91 and 91A to urge that the Plaintiff had not been named in the e-mail dated 18/09/2019-Exhibit-102. The relief granted was in fact on a lower side and the Plaintiff had also challenged the decree to that effect.

5] We find that the appeals give rise to arguable questions. Prima facie, in accordance with Clause-16 of the notice of termination, the Defendant No.1 has paid three months' salary to the Plaintiff and therefore grant of compensation at the quantum of salary payable for 24 months may appear unjustified. At the same time, the Trial Court has recorded a finding in paragraph 29 that it is the Plaintiff alone who has been treated as redundant and thus victimized despite the whistle blower policy. Since a money decree has been passed in favour of the Plaintiff, we are inclined to stay the effect of operation of the impugned decree, subject to the Defendant No.1 depositing in this Court 25% of the principal amount of Rs 96 lakhs within a period of four weeks from today. On such deposit, the said amount shall be invested in fixed deposit of a Nationalized Bank subject to outcome of the appeal. It is clarified that observations made in this order are only for deciding the Interim Application for grant of stay and all contentions of parties would be open for consideration when the appeals are heard.

6] The Interim Application is disposed of in the aforesaid terms.

[JITENDRA JAIN, J.] **[A.S. CHANDURKAR, J.]**