

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3166 OF 2024

Sunil s/o. Kantilal Surawase

....Petitioner

V/S.

Vipul Vijay Chopda

....Respondent

Mr. G.S. Telangre *(through VC) for the Petitioner.*

Mr. Nitin Kulkarni *(through VC) with Mr. Avinash Belge for the Respondent.*

CORAM : SANDEEP V. MARNE, J.

Dated : 23 July 2024.

P.C. :

1) Challenge in the present Writ Petition is to the Judgment and Order dated 17 October 2022 passed by the Industrial Court, Pune, allowing Revision Application ULP/35/2022 filed by the Respondent and setting aside order dated 4 June 2022 passed by the Labour Court No.3, Pune issuing process against the Petitioner.

2) It appears that in Complaint (ULP) No.34 of 2015 filed by the Petitioner, interim order was passed by the Industrial Court on 4 March 2015 restraining the Respondent from terminating the services of

Petitioner except by following due process of law. It appears that on 2 May 2015 Respondent terminated the services of Petitioner contending that since Petitioner worked in supervisory /managerial capacity, provisions of the Industrial Disputes Act, 1947 do not apply to him. Without prejudice to the the said contention, Respondent paid one month's notice pay as well as retrenchment compensation at the rate of 15 days for every years of service performed by the Petitioner. It appears that gratuity and other legal dues were also paid to the Petitioner. This is how total amount of Rs.3,96,229/- was offered and paid to the Petitioner.

3) Petitioner filed Misc. Criminal Complaint No.7 of 2015 alleging violation of interim order dated 4 March 2015 . The Labour Court issued process against Respondent in the said Misc. Criminal Complainant No.7 of 2015 by order dated 4 June 2022. The Industrial Court has however, set aside order dated 4 June 2022.

4) I have heard Mr. Telangare, the learned counsel appearing for the Petitioner and Mr. Kulkarni, the learned counsel appearing for the Respondent.

5) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the interim order granted by the Industrial Court on 4 March 2015 restrained the Respondent from terminating services of Petitioner except by following due process of law. According to Respondent due process of law was followed while terminating services of Petitioner on 2 May 2015 by paying him one month's pay, retrenchment compensation, gratuity and other dues.

According to learned counsel for the Petitioner, principle of seniority was not followed before illegally terminating the Petitioner and accordingly there is violation of interim order dated 4 March 2015 passed by the Industrial Court. It appears that Petitioner has already instituted separate complaint challenging termination order dated 2 May 2015. In that complaint validity of the termination order would be decided. The grievance of the Petitioner with regard to non following of principle of seniority cannot be adjudicated in Miscellaneous Criminal Complaint filed by the Petitioner. In my view therefore, the Industrial Court has rightly set aside the order passed by the Labour Court issuing process. No error is traced in the order passed by the Industrial Court. Writ Petition is accordingly rejected.

[SANDEEP V. MARNE, J.]