

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

WRIT PETITION NO.6697 OF 2024

M/s. Heranba Industries Ltd. ...Petitioner

Versus

Krishna D. Saroj ...Respondent

...

Mr. O. Sankaran Kutty *with Ms Sayali Kadam for the Petitioner.*

Ms. Seema Chopda *for the Respondent.*

CORAM : SANDEEP V. MARNE, J.

DATED : 18 JUNE 2024.

PC:

1. The challenge in the present petition is to the Award dated 21 July 2023 passed by the third Labour Court, Mumbai in Reference (IDA) No.19-D of 2022. The Labour Court, while partly answering the Reference in the affirmative has held the Respondent to be entitled for reinstatement with continuity and 30% backwages with effect from 29 August 2018.

2. I have heard Mr. Kutty, the learned counsel appearing for the Petitioner and Ms Seema Chopda, the learned counsel appearing for the Respondent.

3. It appears that termination of the Respondent is founded on misconduct. Admittedly, neither any domestic enquiry was conducted nor provisions of Section 25F of the Industrial Disputes Act, 1947 have been complied with before resorting to termination of the Respondent. In that view of the matter, the Labour Court has rightly held the termination to be invalid. The only issue that remains is about the nature of relief that could have been granted to the Respondent. It appears that the date of birth of Respondent is 1 July 1963 and accordingly he attained the age of retirement of 60 years on 1 July 2023. Thus, as on the date of the Award dated 21 July 2023 the Respondent had already attained the age of retirement and therefore there was no question of his reinstatement. The next issue is about payment of back wages from 29 August 2018 till 1 July 2023. The Labour Court has awarded 30% back wages during the intervening period. The last drawn wages of the Respondent appear to be Rs.28,959/-. He was terminated from service on 29 August 2018 and filed a direct reference before the Labour Court four years later on 9 February 2022. Though it is sought to be contended that Respondent was pursuing the matter with Government Labour Officer, still there appears to be some delay in approaching the Labour Court on the part of the Respondent.

4. It appears that towards full and final settlement, an amount of Rs.3,55,508/- was held payable to the Respondent and after deducting

Rs.50,000/- towards staff loan, advance salary, etc, the total amount that appears to have been paid to the Respondent is Rs.3,05,715/-, which includes salary for the months of July and August 2018, leave encashment, bonus for the years 2017-2018 and 2018-2019 and Rs. 2,25,087/- towards gratuity. The amount of 30% back wages during the intervening period would approximately be Rs.5,20,000/-. In my view considering the salary already paid for the months of July and August-2018 as well as long delay in approaching the Labour Court, ends of justice would meet if the lumpsum compensation of Rs.3,00,000/- is awarded to the Respondent in lieu of back wages in addition to gratuity payable to the entire service upto 1 July 2023.

5. Accordingly, the impugned Award of the third Labour Court, Mumbai dated 21 July 2023 shall stand modified to the extent that the Petitioner shall pay to the Respondent lumpsum compensation of Rs.3,00,000/- within a period of four weeks from today. Additionally, the difference in the amount of gratuity by computing the service upto 1 July 2023 shall also be paid to the Respondent within a period of four weeks from today.

6. With the above directions the Writ Petition stands disposed of.

[SANDEEP V. MARNE, J.]