



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.7277 OF 2019

Shri Pravin Rameshrao Mandwe .Vs. The Branch Manager, IDBI, Limited, Branch Arvi, Dist.
Wardha

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D.T. Shinde, Advocate for petitioner.

Shri V.P. Maldhure, Advocate for respondent.

CORAM : ANIL S. KILOR, J.

DATED : 17/01/2024

1. Heard.

2. This is a writ petition filed by an employee who was a daily wager and retrenched by the respondent-Bank, raising grievance to the award dated 25.03.2019 to the extent of not granting reinstatement but in lieu of reinstatement, lumpsum amount was paid.

3. The petitioner was appointed as Sweeper in the year 1997-1998 in United Western Bank Limited, Satara and thereafter, he was appointed as Peon. Since the said bank was merged with the respondent-Bank, he continued in service with the respondent-Bank.

4. It is the case of the petitioner that, after completing 240 days in a preceding year, he acquired the status of permanent employee.

5. However, the petitioner was discontinued w.e.f. 01.02.2008 and he was not allowed to sign the muster roll. As the petitioner was not paid compensation, he approached to the learned Presiding Officer, Central Government who referred the matter to the Labour Court under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as “the I.D. Act”).

6. The learned CGIT-cum-Labour Court, Nagpur vide order dated 25.03.2019 held that there was a breach of Section 25(f) of the I.D. Act, while retrenching the petitioner and accordingly, the termination of the petitioner was held to be bad. However, instead of backwages in lieu of reinstatement, the learned CGIT has granted Rs.2,00,000/- as lumpsum monetary compensation. This part of the order is under challenge in this writ petition.

7. I have heard the respective parties.

8. The learned counsel for the petitioner submits that, the learned CGIT had not taken into consideration and appreciated the fact that, the petitioner was in service for nine years prior to his termination and despite there is specific statement made in the statement of claim that, he was unemployed and not gainfully employed elsewhere, reinstatement and backwages ought to have granted to the petitioner.

9. The learned counsel for the respondent-Bank on the other hand submits that, in view of the judgment of the Hon'ble Supreme Court of India in the case of *Deepali Gundu Surwase ..vs.. Kranti Junior Adhyapak Mahavidyala (D.ED.)*, reported in **2013 (10) SCC 324**, the lumpsum monetary compensation granted by the learned CGIT, to the tune of Rs.2,00,000/- is just and proper and hence, no interference is required. He further submits that, the learned CGIT has discussed the issue involved in the present matter in detailed and thereafter, arrived at a right conclusion that the petitioner is not entitled for reinstatement but in lieu of reinstatement, he is entitled for lumpsum monetary benefit. It is pointed out that such amount has already been paid by the Bank to the petitioner. Accordingly, he prays for dismissal of the present writ petition.

10. In light of rival contentions, I have perused the record and the impugned order.

11. In the present matter, a query was put to the learned counsel for the petitioner to calculate the amount of backwages from the date of termination till the date of reinstatement and as per the learned counsel for the petitioner, it comes to that Rs.6,56,000/-.

12. The learned CGIT after taking into consideration the various authorities and the evidence

produced on record, arrived at a conclusion that the petitioner was illegally terminated from the service after working for more than nine years.

13. In the matter at hand, the case of the petitioner cannot be accepted that, he has/was not in gainful employment elsewhere after his termination from 01.02.2008 for the reason that in that case the petitioner would have pressed this petition after filing the same on 05.08.2019. The petitioner never get the matter listed for hearing and this matter has come up for hearing first time after five years after the same was filed.

14. Moreover, considering the time period lapsed in between from date of termination till the passing of this order, I am of the opinion that, the impugned judgment and order needs no interference. The petitioner has already received Rs.2,00,000/- as a lumpsum monetary compensation and if the backwages are calculated, the said amount comes to around 1/3rd of the total amount of the backwages.

15. In the circumstance, the writ petition is **dismissed**.

JUDGE