



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

WRIT PETITION NO.6903 OF 2023

Smt. Medalin Ramnihal Pande,
aged about 68 years, Occ.Nil,
R/o. Plot no.99, Vishwas Nagar,
Nara Road, Near Police Station,
Jaripatka, Nagpur. **PETITIONER**

...V E R S U S...

Matrusewa Sangh,
North Ambazari Road,
Sewasadan, Nagpur through
its Secretary. **RESPONDENT**

Mrs. S. P. Giratkar, Advocate for Petitioner.
Mr. S. G. Zinjarde, Advocate for Respondent.

CORAM: **BHARAT P. DESHPANDE, J.**
DATE: **14th MARCH, 2024.**

ORAL JUDGMENT:

Heard.

2. Rule. Rule is made returnable forthwith.
3. Heard finally with the consent of the learned counsels
for the respective parties.
4. The petitioner is challenging the impugned order
passed by the Labour Court, Nagpur in Reference (IDA)

No.1/2009 wherein an award is passed on 11.05.2023 and that too in absence of the petitioner.

5. The learned counsel for the petitioner would submit that no notice was served on the petitioner either personally or through her counsel, and therefore, she had no opportunity to defend the said proceedings. The Labour Court failed to serve the petitioner on the address mentioned or even the Advocate who appeared for her in the earlier proceedings.

6. The learned counsel for the respondent would submit that the matter was remanded by this Court wherein the petitioner and her Advocate failed to appear. He submits that the petitioner failed to disclose her correct address or change of address, and therefore, the petitioner is at fault.

7. While deciding Writ Petition No.4949/2017 filed by the respondents, the learned Single Judge of this Court (Coram: Amit B. Borkar, J.) observed in the judgment dated 22.09.2022 that the Labour Court passed the impugned award in absence of the respondent and accordingly, the impugned order dated 31.01.2017 passed by the Labour Court, Nagpur was quashed and set aside and the matter was remanded to decide it

afresh.

8. After the matter was remanded by this Court, it appears that the Labour has issued notice to the present petitioner/respondent therein. Admittedly, said notice was not served either on the address mentioned by the petitioner or on alternate address which the bailiff try to locate. The bailiff report dated 02.12.2022 revealed that notice was not served on the present petitioner.

9. It is admitted fact that even the petitioner's Advocate who appeared for her during earlier proceedings was not even intimated by the Labour Court. The award passed on 11.05.2023 clearly revealed that no one was present on behalf of party No.2/petitioner. Thus, it clearly shows that the Labour Court in spite of the bailiff report, failed to take proper steps to serve the present petitioner in order to decide the reference afresh as directed by this Court.

10. The directions passed by this Court in Writ Petition No.4949/2017 dated 22.09.2022 was clear and concerned Labour Court was required to decide such reference afresh. Thus, the Labour Court was duty bound to see that the

petitioner/respondent therein was properly and duly served. When the bailiff report clearly shows that the petitioner was not served on the concerned address mentioned therein, it was further duty of the concerned court to at least intimate the Advocate for the petitioner who appeared during the earlier proceedings. Similarly, the steps could have been taken to serve the present petitioner by other mode. Deciding such reference in absence of the petitioner was completely against the order passed by this Court while remanding the matter. When it is directed to decide the reference afresh, it was the duty of the Labour Court to serve both the parties and give opportunity to them to put-forth their respective stands.

11. The record of Writ Petition No.4949/2017 further shows that no one represented the present petitioner before this Court even though she was served and engaged an Advocate.

12. It is further necessary to note that while remanding the matter by this Court, no specific date was fixed for the parties to appear before the Labour Court. Thus, it was more necessary for the Labour Court to serve the present petitioner before deciding the reference afresh.

13. The record clearly goes to show that deciding such reference in absence of the petitioner amounts to clearly denying an opportunity to defend herself. Accordingly, the impugned order needs interference.

14. The award dated 11.05.2023 passed in Reference (IDA) No.1/2009 is hereby quashed and set aside.

15. The Reference (IDA) No.1/2009 is remitted to the Labour Court to be decided in accordance with law and after hearing the petitioner as well as the respondent. The petitioner as well as respondent shall appear before the Labour Court on 15.04.2024 at 11:00 a.m. The learned Labour Court shall thereafter decide the reference by giving opportunity to both the sides, as early as possible.

16. Rule is made absolute in the above terms.

17. The parties shall act on the authenticated copy of this order.

(BHARAT P. DESHPANDE, J.)