

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10540 OF 2023

Sanjay Vishwanath Waghmare

VERSUS

Prashashkiya Adhikari And Another

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Advocate for the Petitioner : Mr. Kulkarni Ashutosh S.

AGP for Respondent/State : Mr. V.S. Badakh

Advocate for Respondent Nos.1 & 2 : Mr. Shirsat Ravindra G. & Mr.
Tribhuwan

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATED : DECEMBER 10, 2025

PER COURT :

1. Heard learned counsel for respective parties.
2. By way of present petition, the petitioner challenges the order dated 08.08.2018 passed below Exhibit-05 by the learned Member, Industrial Court, Jalna in Revision (ULP) No.14 of 2016, thereby allowing the revision filed by the respondents herein.

3. The brief facts which are necessary to be mentioned are as under :

The petitioner herein was initially appointed from 11.05.1991 to 20.03.1994 and thereafter, from April-2005 to October-2006, he worked through the contractor as per contention of the respondents. It is an admitted fact that the respondent's mill was already closed. The petitioner herein approached the learned Labour Court with a prayer for reinstatement and alternatively grant

retrenchment compensation. Both parties have led the evidence and the learned Labour Court considering the evidence led by both parties, instead of reinstatement awarded retrenchment compensation to the tune of Rs.3 lakh @ 6% p.a. from the date of filing the complaint. The said order was assailed by respondents herein by filing a revision under Section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The learned Member Industrial Court reversed the finding and the revision filed by the respondents herein came to be allowed.

4. Learned counsel for the petitioner submits that the record which was placed before the Labour Court clearly demonstrate that the petitioner was appointed through direct recruitment and he continuously worked over there for more than 240 days. Therefore, he continuously worked with the respondents and he is entitled for retrenchment compensation. But subsequently, the respondents came with a record that the petitioner came to be appointed through a contractor.

5. Per contra, learned counsel for the respondents submits that the petitioner herein never worked after the initial period which came to end on 20.03.1994 and subsequently, for some period, he was appointed through the contractor. As there was no employer/employee relationship, the complaint itself was not maintainable. He further submits that issue of maintainability of the

complaint on the point of delay was raised when the mill was already closed. Therefore, once employee fails to prove that employer/employee relationship subsists, the complaint ought not to have been allowed by the Labour Court. He further submits that the learned Industrial Court considered the fact that the findings recorded by the Labour Court are perverse. Even the documentary evidence clearly states that the petitioner had worked for a particular period through the contractor and thereafter, he never worked with the respondents. He further submits that the petitioner never completed 240 days of continuous service in a calendar year. Therefore, the order passed by the Labour Court is contrary to the record which was duly proved by the respondents and therefore, the learned Industrial Court has rightly interfered with the order.

6. I have considered the rival submissions advanced by both parties and I have gone through the order passed by the learned Industrial Court. It is not disputed that the initial appointment of the petitioner was through direct recruitment and the same was also considered by the learned Industrial Court in para 31. As the mill was already closed and only because for some period, the petitioner was appointed through the contractor that does not disentitle the petitioner to claim the retrenchment compensation. As the initial appointment was through direct recruitment and subsequently the mill was closed and service condition was changed without giving

prior intimation to the petitioner/employee. In view of the alternate prayer made by the petitioner, he was granted retrenchment compensation instead of reinstatement. The Labour Court while considering the complaint has observed that other similarly situated employees have been granted retrenchment compensation and on the ground of parity, the retrenchment compensation was awarded to the petitioner/employee also.

7. The learned Industrial Court has observed that there was appointment through direct recruitment and while terminating the service if the provisions of the Industrial Dispute Act, 1961 were not followed, then certainly the employee is entitled for retrenchment compensation. In view thereof, I am of the opinion that the order of Industrial Court needs interference under Article 227 of the Constitution of India.

8. In view of the above, writ petition is allowed. The order dated 08.08.2018 passed by the learned Member, Industrial Court, Jalna in Revision (ULP) No.14 of 2016 passed by the learned Industrial Court is hereby quashed and set aside.

9. The order dated 21.11.2015 passed below Exhibit O-6 by the learned Labour Court, Nanded in Complaint (ULP) No.252 of 2008 is confirmed.

(SIDDHESHWAR S. THOMBRE, J.)