

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 573 OF 2011

Balvikas Prakalp Adhikari
Ekatmik Bal Vikas Sewa Yojana
and anr.

....*Petitioners*

V/s.

Smt. Shamim Ibrahim Pathan

....*Respondent*

WITH
WRIT PETITION NO. 5950 OF 2011

Smt. Shamim Ibrahim Pathan

....*Petitioner*

V/s.

Balvikas Prakalp Adhikari
Ekatmik Bal Vikas Sewa Yojana
and anr.

....*Respondents*

Mr. Vijay Killedar, *for the Petitioner in WP-573-2011 and for Respondent in WP-5950-2011,*

Mr. Suhas N. Inamdar, *for the Respondent in WP-573-2011 and for the Petitioner in WP-5950-2011.*

CORAM : SANDEEP V. MARNE, J.

Date : 9 January 2025.

P.C. :

1) The petition challenges the judgment and order dated 6 October 2010 passed by the Member, Industrial Court, Solapur directing reinstatement of the Petitioner in Writ Petition no. 5950/2011 who is the Respondent in Writ Petition No. 573/2011. The reinstatement is directed by the Industrial Court without backwages. The Industrial Court has set aside the judgment and order dated 6 July 2007 passed by the Labour Court, Solapur dismissing Complaint (ULP) No.20/2005.

The employee is aggrieved by denial of backwages by the Industrial Court and has accordingly filed Writ Petition No. 5950 of 2011 whereas the employer is aggrieved by the order of reinstatement and has accordingly filed the present petition.

2) I have heard Mr. Inamdar, the learned Counsel appearing for the employee and Mr. Killedar, the the learned Counsel for the appearing for the employer.

3) It appears that Integrated Child Development Scheme was being implemented by the Zilla Parishad, Solapur through the Child Development Project Officer and under the said scheme employee, Smt. Shamim Ibrahim Pathan was engaged as Anganwadi Sevika on monthly consolidated honorarium w.e.f. 21 March 1989. The last honorarium drawn by her was Rs.1410/-. It appears that a show cause notice was issued to the employee on 12 January 2005 alleging various misconducts including that of unauthorised absence. The last date for filing response was 15 January 2005. However, the said show cause notice was received by the employee on 17 January 2005 and she was denied opportunity to file response. The employer-ZillaParishad proceeded to terminate her services on 29 January 2005.

4) In the present case, it is an admitted position that no enquiry was conducted while terminating the services of the employee. Though show cause notice was issued to her, she did not get an opportunity to respond to the allegations levelled in the show cause notice. Thus the termination appears to be in violation of the principles of natural justice. In that view of the matter, no serious error can be traced in the direction issued by the Industrial Court for reinstatement of the employee. At the same time, it must be borne in mind that she was not a regular employee of Zilla Parishad, she was merely engaged

on consolidated monthly honorarium as Anganwadi Sevika towards implementation of Child Development Programme. Therefore, there is no question of award of any backwages to her.

5) It appears that the employee has already crossed the age of superannuation and is today aged 62 years. Therefore, there is no question of her reinstatement at this belated stage. Considering this position, award of lumpsum compensation to the employee would serve the interest of justice. I accordingly proceed to pass the following order :

(i) Judgment and order dated 6 October 2010 passed by the Industrial Court, Solapur in Revision Application (ULP) No. 52/2007 shall stand modified to the extent that the employer-Child Development Project Officer and Zilla Parishad, Solapur shall pay to the employee, Smt. Shabana Ibrahim Pathan, lumpsum compensation of Rs.3,00,000/- towards full and final satisfaction of all her service related claims. Beyond the lumpsum compensation so awarded, she shall not be entitled to claim any further amounts/benefits from the employer.

(ii) The amount of compensation shall be paid to the employee within a period of 3 months from today.

6) With the above directions, both the Writ Petitions stand allowed and disposed of.

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[SANDEEP V. MARNE, J.]