

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.3723 OF 2023**

Shri. Krushna Vishwanath Jangam,
Age: 62 years, Occ. Retired,
R/o. Hutatma Sakhar Kamgar Colony,
A/P. Walwa, Tal. Walwa, Dist. Sangli. ..Petitioner

Versus

Hutatma Kisan Ahir Sahakari Sakhar Karkhana Ltd.,
Walwa, Tal. Walwa, Dist. Sangli
Through its Managing Director. ..Respondent

**AND
WRIT PETITION (STAMP) NO.23017 OF 2022**

Hutatma Kisan Ahir Sahakari Sakhar Karkhana Ltd.,
Walwa, Tal. Walwa, Dist. Sangli
Through its Managing Director. ..Petitioner

Versus

Shri. Krushna Vishwanath Jangam,
Age: 62 years, Occ. Retired,
R/o. Hutatma Sakhar Kamgar Colony,
A/P. Walwa, Tal. Walwa, Dist. Sangli. ..Respondent

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Mr. Nitin Kulkarni a/w Mr. Onkar Ghatage, Advocate for Petitioner in
WP/3723/2023 and Respondent in WPST/20317/2022.

Mr. M. S. Topkar a/w Mrs. Bhargavi Patil a/w Mr. Neev Patil I.by Mr.
Saurabh Mandlik, Advocate for Respondent in WP/3723/2023 and for
Petitioner in WPST/20317/2022.

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CORAM : S. G. CHAPALGAONKAR, J.

**RESERVED ON : 24th NOVEMBER, 2025.
PRONOUNCED ON : 01st DECEMBER, 2025.**

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties,
matters are taken up for final hearing at admission stage.

2. The petitioners impugn order dated 24.02.2022 passed by Industrial Court, Sangli in Revision Application (ULP) No.35/2018, which arises out of order dated 17.03.2018 passed by Labour Court, Sangli in Complaint (ULP) No.31/2003. Writ Petition No.3723/2023 is filed by employee/original complainant, whereas Writ Petition (Stamp) No.20317/2022 is filed by employer/original respondent before Labour Court. (Hereinafter, parties are referred to by their original status before Labour Court for the sake of convenience and brevity).

3. The services of complainant/employee were terminated on 30.06.2003. He filed Complaint (ULP) No.31/2003 before Labour Court. On 17.03.2018, Labour Court allowed Complaint directing reinstatement of complainant alongwith 75% back-wages w.e.f. 30.06.2000 till date of his superannuation. Aggrieved employer filed Revision Application (ULP) No.35/2018 before Industrial Court. The Industrial Court, partly allowed Revision Application holding that employer is guilty of unfair labour practices and directed to pay compensation of Rs.15,00,000/- in lieu of reinstatement and back-wages, as employee has attained age of superannuation. The employer as well as employee are aggrieved by order of Industrial Court and raises challenge on grounds mentioned in respective Writ Petitions. According to employer, Labour Court erroneously allowed Complaint, although no case of unfair labour practices could be made out against him. Further Industrial Court affirmed order of Labour Court without

application of mind and granted relief of lump-sum compensation of Rs.15,00,000/- to employee without any basis. The unfair labour practices as alleged under Item Nos.(a), (b), (d), (e), (f) and (g) are unproved. Hence, no relief could have been granted in favour of respondent/employee.

4. It is contention of employee that he was serving since 11.06.1984. His entire service record was clean and unblemished. He has been victimized by employer by issuing false charge-sheet.

5. Mr. M. S. Topkar, learned Advocate appearing for employer would submit that there is no basis for grant of back-wages or compensation in lieu of reinstatement in facts and circumstances of present case. The employee was terminated in year 2003. Evidence on record depicts that he was gainfully employed or actively earning through different engagements. In such case, there was no reason to grant back-wages @ 75% or lump-sum compensation of Rs.15,00,000/- without indicating reason for such calculation.

6. Per contra, Mr. Nitin Kulkarni, learned Advocate appearing for employee would submit that after rendering 17 years of continuous unblemished service, termination order was passed in year 2003. Prior to termination, employee was made permanent in year 1986. He attained age of superannuation on 31.05.2021. He was kept away

from employment till date of his superannuation. There is nothing to show his gainful employment or earning during this period.

7. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that employer is Co-operative Sugar Factory. On 11.07.2002, employee was served with charge-sheet for unauthorized absentism from 25.05.2000 till date of issuance of charge-sheet. He was subjected to enquiry. Later on, dismissed from service vide order dated 30.06.2003. The employee filed Complaint (ULP) No.31/2003 before Labour Court at Sangli. The Labour Court held that enquiry conducted against employee was fair, but findings of Enquiry Officer were perverse. The finding of Labour Court was challenged before Industrial Court in Revision Application (ULP) No.11/2011. However, Industrial Court confirmed order of Labour Court. It appears that, finding recorded by Labour Court is also affirmed by this Court.

8. In wake of perversity in finding recorded by Enquiry Officer, evidence of parties was recorded. The Labour Court passed final judgment and order dated 17.03.2018 allowing Complaint and declared that employer engaged in unfair labour practices and directed that services of employee be treated as continuous from 30.06.2000 till he attained age of superannuation and also directed payment of 75% back-wages. The employer filed Revision Application before Industrial Court, which is partly allowed. The order granting 75% back-wages

has been modified to lump-sum compensation of Rs.15,00,000/- in lieu of reinstatement and back-wages. The contentious issue that arises for consideration before this Court is only as to grant of back-wages or awarding lump-sum compensation of Rs.15,00,000/- in lieu of reinstatement and back-wages.

9. Apparently, employee had rendered 17 years of service as permanent employee till date of termination in year 2003. The order of termination was subjected to challenge before Labour Court. In first round of litigation, Labour Court accepted validity of enquiry proceeding, however, held that conclusion of Enquiry Officer recording guilt on part of employee was perverse. The aforesaid finding attained finality upto this Court. Therefore, mere issue that requires consideration is employee's entitlement to receive back-wages. The Labour Court observed that after termination of employee, his wife was running grocery shop and as such, complainant had income to the extent of Rs.2000 to 2500 per month from shop run by his wife. Later on, said shop was closed. In this background, Labour Court thought it fit to grant back-wages @ 75%. However, Industrial Court observed that since employee attained age of superannuation on 31.05.2021, grant of lump-sum compensation of Rs.15,00,000/- would be just and proper in lieu of reinstatement and back-wages.

10. It appears that, Industrial Court relied upon judgment of Supreme Court in case of *Allahabad Bank and Ors. Vs. Krishan Pal*

*Singh*¹. In that case also since employee had attained age of superannuation during pendency of proceeding, compensation was awarded.

11. Pertinently, Industrial Court has not recorded reasons while arriving at magical figure of Rs.15,00,000/- towards lump-sum compensation. This Court finds that when termination of employee is found to be illegal, unless it is shown that employee was gainfully employed, his entitlement for back-wages cannot be declined. Only because employee has attained age of superannuation, he cannot be deprived of back-wages upto attaining age of superannuation. It is true that, reinstatement with full back-wages is not automatic as consequence of setting aside termination order, however, fixation of back-wages must be rational in facts and circumstances of each case. In present case employee had served 17 years before his illegal termination. He was terminated from service on the basis of perverse findings recorded by Enquiry Officer. He was not reinstated till he attained age of superannuation.

12. In present case, Labour Court observed that wife of employee was running grocery shop and she was earning livelihood. Definitely grocery shop must have been run with assistance of employee, but that cannot be treated as gainful employment. The Labour Court was, therefore, justified in fixing back-wages @ 75%. The Industrial Court

¹ (2021) 19 SCC 227.

without recording any reason passed order of compensation in lieu of reinstatement and back-wages. The Industrial Court appears to have committed jurisdictional error while interfering order of Labour Court. Hence, following order:

ORDER

- a. Writ Petitions are partly allowed.
- b. The impugned order passed by Industrial Court is modified to the extent of direction of payment of lump-sum compensation of Rs.15,00,000/- in lieu of reinstatement and back-wages to employee.
- c. The order of Labour Court, thereby granting 75% back-wages stands restored.
- d. Rule made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE