

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2153 OF 2025

Maharashtra Rajya Sahakari

Dudh Mahasangh Maryadit

V/S

Tanaji S. Anuse

....Petitioner

....Respondent

Mr. B.D. Birajdar a/w Mr. Komal Deshmukh *for the Petitioner.*

Mr. Y.B. Lengare with Mr. Aditya K. Gaikwad *for Respondent No.1.*

CORAM: SANDEEP V. MARNE, J.

DATE : 20 FEBRUARY 2025.

P.C.:

1. The Petition challenges award dated 12 April 2024 passed by learned Presiding Officer, Tenth Labour Court, Mumbai, partly answering the Reference (IDA) No.38 of 2015 in the affirmative and directing the Petitioner to pay to the Respondent-workmen compensation of Rs.10,00,000/- in lieu of reinstatement and backwages.

2. I have heard Mr. Birajdar, the learned counsel appearing for the Petitioner and Mr. Lengare, the learned counsel appearing for Respondent-workman. I have also gone through the findings recorded by the Labour Court in the impugned award as well as the relevant records of the case filed alongwith the Petition.

3. It appears that the Respondent faced charge of remaining unauthorisedly absent since 1 October 2007 onwards. The fact that the Respondent was absent is not really disputed. It is however the case of the Respondent that there were circumstances created by the officials of the Petitioner which kept him away from duties. Those circumstances were repeatedly highlighted by the Respondent-workman both before the Authorities as well as during the course of conduct of enquiry.

4. It appears that the Labour Court had earlier held that the enquiry was fair and proper and that the findings of the Enquiry Officer were not perverse. This Court however set aside the Part-1 Award passed by the Labour Court by its judgment and order dated 6 June 2022 and reversed the findings on both the preliminary issues of fairness in the enquiry and perversity in the findings of the Enquiry Officer. This Court also imposed costs of Rs.50,000/- on the Petitioner, which has been already paid to the Respondent-workman.

5. Before the Labour Court, Petitioner attempted to justify its action of dismissal by leading evidence. Perusal of the evidence led by the parties before the Labour Court would indicate that there were certain circumstances on account of which the Respondent-employee was prevented from attending the duties. However the length of absenteeism is quite substantial. As on the date of issuance of the charge-sheet, Respondent-employee

was absent from 1 October 2007 to 20 July 2009. The Labour Court has rightly denied the benefit of reinstatement and backwages considering the length of unauthorized absence of the Respondent-employee. It has instead directed payment compensation of Rs.10,00,000/- in lieu of reinstatement and backwages. In my view, no serious error can be traced in the approach adopted by the Industrial Court in awarding compensation to the Respondent-employee in lieu of reinstatement and backwages. In corrective jurisdiction of this Court under Article 227 of the Constitution of India, every error of fact or law need not be corrected. Since no jurisdiction error or fragrant exercise of power is noticed, I am not inclined to exercise jurisdiction under Article 227 of the Constitution of India. What needs to be clarified is that the Respondent-workman shall not be entitled to claim any further service related benefits, including gratuity, since he is already awarded lumpsum compensation of Rs.10,00,000/-. I therefore do not find any valid reason to interfere in the impugned award. Subject to the clarification given above, Writ Petition is **rejected**.

6. Time to pay the amount of compensation shall stand extended by a period of two months.

(SANDEEP V. MARNE, J.)

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by SUDARSHAN
RAJALINGAM
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