



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

WRIT PETITION NO.5048/2023

Regional Manager, Maharashtra Ex-Servicemen Corporation Limited, Nagpur
...Versus...
Ramchandra S/o Chandrabhan Chawade

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Ms Neerja Chaubey, Advocate for petitioner
Mr. S.W. Sambre, Advocate for respondent

CORAM : ROHIT W. JOSHI, J.
DATE : 27/11/2025

1. The present petition takes exception to the award dated 24/02/2023, passed by the learned first Labour Court at Nagpur in Reference (IDA) Case No.50/2017. The grievance of the respondent-original party No.2 was that his services were illegally terminated by the present petitioner-party No.1 on 05/03/2017. Reference was made by the Additional Commissioner of Labour, Nagpur vide order dated 14/12/2017, pursuant to which aforesaid reference was registered.

2. The contention of employer-party No.1 before the Labour Court was that services of employee-party No.2 were not terminated and that his services were transferred to Indira Gandhi Medical College and Hospital at Nagpur. It is further stated that party No.2-employee did not join at the transferred place and instead has filed a reference alleging oral termination. The learned labour Court has discarded the said contention, in view of the stand, which was taken by the

employer-party No.1 before the Labour Commissioner, wherein contention was raised that party No.2-employee was contending that since he had completed more than 240 days of service in a calendar year, he was entitled to the benefits of permanent employee and that he was not ready to work as a fresh employee and was not reporting for work on this ground.

3. In view of the contradiction in the stand taken before both the Authorities, the learned Labour Court deemed it appropriate to accept contention of party No.2 – employee that his services were orally terminated. The case is one of oral termination. Party No.2- employee has stated on oath that services were orally terminated. The matter was required to be adjudicated on the basis of oral evidence. Having regard to contrary stand taken by the party No.1-employer, the learned Labour Court has chosen to accept the version of party No.2 – employee. This Court has no reason to take a different view of the matter.

4. The other contention raised by the learned Advocate for the petitioner-employer is that the preliminary issue with respect to jurisdiction of the Labour court was wrongly decided. She contends that appropriate Government for the party No.1 is the Central Government. She has placed reliance on Government Resolution dated 14/11/2002 in support of her contention. Order dated 14/09/2021 by which preliminary objection was rejected is not placed on record, however, copy thereof is provided for perusal. Perusal of paragraph 9 of the said order will indicate that the learned Labour Court found that party No.1 is a Government of Maharashtra undertaking which was established and

constituted by virtue of a Government Resolution, issued by the Government of Maharashtra. The learned Labour Court has also found that the party No.1 is registered under Bombay Shops and Establishments Act, 1948. Merely because it is empanelled that the Director General of Resettlement, it cannot be said that the Central Government will be the appropriate Government. The conclusion drawn by the learned Labour Court on the preliminary issue is also just and proper.

5. As regards back wages, the learned Labour Court has observed that there is no allegation from the side of employer that the employee was gainfully employed elsewhere. As against this, perusal of statement of claim and affidavit of examination-in-chief by the employee will demonstrate that he has made a statement that despite attempt, he could not secure employment elsewhere. The learned Labour Court has granted 100% back wages from the date of termination i.e. 05/03/2017 till the date of reinstatement.

6. In the considered opinion of this Court, although statement that the employee was not gainfully employed elsewhere is made, there is no further explanation as to how expenses were met for all these years.

7. Learned Advocate for the respondent – employee states that the employee is an ex-serviceman and was drawing pension.

8. Having regard to the totality of circumstances, in the considered opinion of this Court, award warrants interference to the extent of award of back wages. In the peculiar facts of the case, it will be appropriate to award 60%

back wages, as against 100% back wages awarded by the learned Labour Court.

9. Writ Petition is partly allowed. Award dated 24/02/2023 passed by the learned first Labour Court in Reference (IDA) No.50/2017 is modified to the extent that instead of full back wages, the party No.2 – employee will be entitled to 60% back wages from **05/03/2017** i.e. date of termination till his reinstatement.

Date is corrected
as per order dated
22/12/2025 passed
in CAW
No.2938/2025

10. No order as to costs.

(ROHIT W. JOSHI, J.)

Wadkar