



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

WRIT PETITION NO. 2939 OF 2022

Vinod Sureshrao Mahalle
 Aged 39 years, Occ : Nil,
 R/o. Dhanodi (Bahadur), Tq.Arvi,
 Dist. Wardha

}

.. Petitioner

Versus

1. Secretary,
 Gram Panchayat Dhanodi (Bahadur),
 Tq. Arvi, Dist. Wardha
2. Sarpanch,
 Gram Panchayat Dhanodi (Bahadur),
 Tq. Arvi, Dist. Wardha

}

.. Respondents

 Mr. R.N.Deshpande, Advocate for petitioner.
 Mr. P.S.Kadam, Advocate for respondents.

CORAM : ROHIT W. JOSHI, J.

DATED : DECEMBER 16, 2025

ORAL JUDGMENT

(1) **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel appearing for the parties.

(2) The present petitioner had filed a Complaint (ULP) No.11/2016 challenging the termination of his services on 01/02/2016. The said Complaint was dismissed by the learned Judge, Labour Court, Wardha vide judgment and order dated 10/02/2017. Being aggrieved

by the said judgment, the petitioner preferred Revision (ULP) No.50/2017, which was partly allowed by the learned Member, Industrial Court No.3, Nagpur by quashing and setting aside the judgment delivered by the learned Judge, Labour Court, Wardha and also setting aside the termination of service of the petitioner. The learned Industrial Court has issued direction for reinstatement with continuity in service in favour of the petitioner. However, prayer for back-wages was rejected. The petitioner has filed the present petition challenging the judgment and order passed by the learned Industrial Court to the extent of denial of back-wages. The respondent employer has not assailed the said order.

(3) Perusal of the judgment passed by the learned Industrial Court will demonstrate that it has recorded that one of the witnesses of the respondent employer had deposed that during the relevant period, the petitioner was engaged in agricultural activity. On the basis of this evidence, the learned Industrial Court has recorded that the petitioner was gainfully employed and had source of income to maintain himself. The relief of back-wages is denied on this ground.

(4) Mr. Deshpande, learned counsel for the petitioner contends that when service of an employee is terminated, the employee cannot be expected to sit idle. He further contends that the petitioner was doing some work would not mean that he is not entitled

for the relief of back-wages. He contends that normal rule is that order of reinstatement must be coupled with back-wages.

(5) Mr.Kadam, learned counsel for the respondent justifies the judgment contending that since the petitioner was gainfully employed elsewhere, question of granting back-wages did not arise at all and same is rightly denied by the Industrial Court.

(6) With the able assistance of learned counsel, I have perused the judgment delivered by the learned Industrial Court and also evidence led by the rival parties. It appears that the petitioner employee has made a statement on oath that he was not gainfully employed elsewhere. As against this, the respondent employer has brought the evidence on record that petitioner was engaged in agricultural activity. Perusal of the evidence of witness No.2 Ravindra Laxmanrao Nakhale will demonstrate that he has deposed that the petitioner/employee was cultivating his agricultural land during the relevant period. In the considered opinion of this Court, the learned Industrial Court has erred in completely denying the back-wages to the petitioner, in view of the said evidence led by the respondent employer. It is obvious that if the services of an employee are terminated, he would look for some alternate employment to earn his livelihood. It appears that from the deposition of witness No.2 of the respondent employer that the petitioner was having some agricultural land and he

was cultivating the same after his termination. This obviously cannot be a ground to deny the back-wages. Only because the petitioner was cultivating his agricultural land while he was out of employment would not be sufficient to disentitle him from claiming back-wages. In all probabilities, agricultural land owned by the petitioner would not be kept uncultivated while he was in employment. At best, the petitioner would have saved on engaging one labour while allegedly working in his field. A person who is out of employment cannot be expected to sit completely idle in order to claim back-wages. Having regard to totality of circumstances, in the considered opinion of this Court, petition deserves to be partly allowed as under :-

(7) Clause (7) of the operative order dated 05/10/2019, passed by learned Member, Industrial Court No.3, Nagpur in Revision (ULP) No.50/2017 is modified by directing the respondent employer i.e. Gram Panchayat, Dhanodi (Bahadur), Tah. Arvi, Dist. Wardha to pay 50% back wages to the petitioner from 01/02/2019 i.e. date of termination of service till 05/10/2019 i.e. date of judgment in the Revision. Rest of the order is maintained. Parties to bear their own costs.

[ROHIT W. JOSHI, J.]

KOLHE