

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.382 OF 2025

ATUL
GANESH
KULKARNI

Digitally signed by
ATUL GANESH
KULKARNI
Date: 2026.05.08
12:03:58 +0530

Raghunath Shivram Naikade,
Age 63 years, R/at Post Kadadhe,
Taluka Khed, District Pune 410 513

... **Petitioner**

Vs.

Patil Construction and Infrastructure Ltd.,
Office at 3rd Floor, PMPML Commercial
Building No.1, Opp. Income Tax Bhavan,
Shankarshet Road, Swargate,
Pune 411 042

... **Respondent**

Mr. V.N. Jadhav for the petitioner.

Mr. Vishal G. Shirsat i/by Mr. Nitin Murkute for the
respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : MAY 7, 2026.

PRONOUNCED ON : MAY 8, 2026

JUDGMENT:

1. By the present writ petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner has put to challenge the legality, correctness and propriety of the Judgment and Award dated 19 January 2024 passed by the learned Labour Court in Reference (IDA) No.58 of 2018.

2. The facts giving rise to the present writ petition, as pleaded by the petitioner, may briefly be stated thus. The respondent Company is engaged in the business of construction of roads and allied infrastructure activities in various States and is also carrying on activities relating to solar energy projects. According to the petitioner, more than 500 employees are working with the respondent Company and, therefore, the establishment squarely answers the definition of an “Industry” within the meaning of the provisions of the Industrial Disputes Act, 1947. It is further the case of the petitioner that the provisions of the Industrial Employment (Standing Orders) Act, 1946 are also applicable to the establishment of the respondent Company.

3. The petitioner has stated that he is educated upto 12th standard and, prior to joining the respondent establishment, he had acquired experience of more than sixteen years in liaising work connected with construction and infrastructure offices. It is his case that he joined the services of the respondent Company on 25 August 2016 on the post designated as “Senior Liaising Officer”. According to the petitioner, at the time of his appointment, the HR and Administration Manager of the respondent Company had assured him that he would be paid monthly salary of Rs.40,000/-. However, in actual practice, the respondent Company allegedly paid him salary of Rs.25,000/- per month only. The petitioner has further contended that upon completion of the probation period, his services came to be confirmed and assurances were again extended by the management that the promised salary structure would shortly be implemented.

4. It is the specific contention of the petitioner that while working on the post of Senior Liaising Officer, the nature of duties performed by him consisted mainly of filing documents before Government offices, pursuing follow-up work for obtaining permissions from offices such as the Pollution Control Board, Public Works Department, Revenue Authorities, Regional Transport Office and other Government departments, as also collection of documents, cheques, forms and permission letters. According to the petitioner, the duties discharged by him were manual, clerical and operational in nature and, therefore, he squarely fell within the category of a “workman” as contemplated under the Industrial Disputes Act, 1947. It is his further case that he was never vested with any supervisory, managerial or administrative powers.

5. The petitioner has further averred that in or about March 2017, he was internally transferred by the respondent Company to the Plant and Machinery Department and was entrusted with the work relating to RTO passing of old dumpers. According to him, while carrying out the said work, he incurred certain expenses from his personal funds for completion of the assigned work. It is his grievance that despite completion of the work entrusted to him, the respondent Company neither granted him any increment in salary nor reimbursed the expenses allegedly incurred by him. The petitioner contends that on account thereof, relations between him and the management became strained. It is further alleged that thereafter the managerial staff of the respondent Company started subjecting him to discriminatory treatment and harassment and repeatedly pressurised him to tender resignation from service.

According to the petitioner, he was thereafter assigned duties at distant places with an intention to harass him and ultimately his services came to be orally terminated by the respondent Company on 24 July 2017 without following due process of law and without payment of his lawful dues.

6. It is the case of the petitioner that after termination of his services, he raised an industrial dispute by issuing a demand notice and by initiating conciliation proceedings. However, the respondent Company allegedly refused to reinstate him in service and consequently the industrial dispute came to be referred for adjudication before the Labour Court at Pune. The petitioner thereafter filed his statement of claim before the Labour Court. Though the respondent initially appeared belatedly in the proceedings and succeeded in getting the “No Written Statement” order set aside, the respondent thereafter filed its written statement on record. The Labour Court framed issues for determination. The petitioner led evidence by filing affidavit in lieu of examination-in-chief. According to the petitioner, thereafter the respondent Company and its Advocates failed to remain present before the Labour Court and, therefore, the testimony of the petitioner remained unchallenged. It is the further grievance of the petitioner that the respondent failed to adduce either oral or documentary evidence in support of its defence or to substantiate the contentions raised in the written statement.

7. The learned Labour Court thereafter proceeded to adjudicate the reference and ultimately partly allowed the same by passing the impugned Award. However, according to the petitioner, while

granting relief, the Labour Court awarded only a meagre amount of compensation. Being dissatisfied with the quantum of compensation awarded under the impugned Award, the petitioner has approached this Court by filing the present writ petition.

8. Mr. Jadhav, learned counsel appearing for the petitioner, submitted that the petitioner had specifically deposed before the Labour Court that he remained unemployed during the period from July 2017 till June 2021 and, therefore, the Labour Court ought to have granted full back wages for the said period of approximately forty-eight months. Learned counsel submitted that considering the last drawn wages of Rs.25,000/- per month, the petitioner would have been entitled to an amount of approximately Rs.12,00,000/- towards back wages. It is, therefore, contended that the Labour Court committed serious error in awarding compensation of merely Rs.2,00,000/-, particularly in a case where the respondent employer neither remained present before the Court nor led any evidence in rebuttal, despite the fact that its office was situated in the same building where the Labour Court is functioning.

9. Learned counsel for the petitioner further submitted that even according to the written statement filed by the respondent employer, it stood admitted that the petitioner was drawing monthly salary of Rs.25,000/-. He submitted that the petitioner had entered the witness box and had made a categorical statement on oath that he was not gainfully employed elsewhere during the relevant period. According to learned counsel, once such statement was made on oath, the burden shifted upon the employer to

establish either that the petitioner was gainfully employed elsewhere or that he was otherwise not entitled to back wages. However, the respondent employer failed to adduce any evidence whatsoever to discharge such burden. It is, therefore, submitted that the Labour Court ought to have granted full back wages by way of compensation.

10. The record indicates that when the matter was called out on 23 April 2026, learned counsel appearing for the respondent remained absent and, therefore, by way of last opportunity, the matter was adjourned to 30 April 2026. On 30 April 2026 also, learned counsel for the respondent sought adjournment and the matter was thereafter again kept today as a last chance matter. In the morning session today, learned counsel for the respondent once again sought adjournment. The said request was declined, and it was specifically made clear that the writ petition would be taken up for final disposal in the afternoon session. However, when the matter was called out in the afternoon session, none appeared on behalf of the respondent. In these circumstances, this Court has proceeded to decide the writ petition on merits on the basis of the material available on record.

REASONS AND ANALYSIS:

11. The factual foundation is not in serious dispute. The respondent Company is engaged in construction and allied works and also in solar energy project. It is an industry. The petitioner joined on 25 August 2016 as Senior Liaising Officer. The employer itself has not disputed in any substantial manner that he was

drawing Rs.25,000/- per month. The nature of the duties pleaded by the petitioner also show that he was engaged in liaising work, collection of papers, follow up before public offices, and similar activities. These duties, on the face of it, do not bear the character of managerial or supervisory power. The respondent did not place any material to show that the petitioner had authority to control staff, to sanction leave, to impose discipline, or to exercise any independent managerial discretion. In absence of such material, the case of the petitioner that he was a workman could not have been brushed aside.

12. The manner in which the service came to an end is also of significance. The petitioner has consistently stated that his service was orally terminated on 24 July 2017. No domestic inquiry is shown. No charge is issued. No statutory procedure is demonstrated. No retrenchment compliance is shown. The respondent, though given opportunity before the Labour Court, did not remain present and did not lead evidence. This is not a small lapse. It goes to the root of the defence. When a workman enters the witness box and states on oath that he remained unemployed, and when the employer who alone could best answer that assertion chooses not to enter the witness box with supporting record, the Court is left with only one credible version. In such situation, an adverse inference is proper.

13. The Labour Court, however, seems to have proceeded on a much narrower footing while granting compensation. The award of Rs.2,00,000/- does not appear to have been matched with the admitted wages, the length of unemployment pleaded on oath, the

age and background of the workman, and the fact that the employer did not produce a whisper of rebuttal evidence. A compensation of such meagre sum in a matter where the last drawn salary was Rs.25,000/- per month and the workman says that he remained unemployed for about forty-eight months, does not answer the demands of justice. Even if one does not accept the figure of full back wages, still the award has to bear some relation with the loss of livelihood and the unlawful severance of service.

14. It is true that the petitioner had worked for a short period in the respondent establishment, roughly for eleven months. That circumstance may have some bearing while moulding the relief. It may justify that the Court does not mechanically direct reinstatement after lapse of time. It may also justify that the Court examines the case for lump sum compensation rather than exact computation of full back wages as if the contract of employment had continued without break. But this short tenure cannot be used to reduce the relief to an almost symbolic amount. Once the termination is found unsustainable and the employer fails to rebut the plea of unemployment, the workman cannot be left with a compensation which is hardly proportionate to even a few months of salary.

15. The petitioner had claimed that he remained unemployed from July 2017 to June 2021. That period is substantial. The monthly wage of Rs.25,000/- was not denied in substance. If that figure is taken only for broad assessment, the claim for back wages would travel much beyond the amount awarded by the Labour Court. At the same time, this Court is conscious that the present

proceedings are under Articles 226 and 227 and the relief has to be moulded with some restraint. The compensation must therefore be enhanced to a figure which reflects the illegal termination, the period of forced unemployment, the admitted wages, and the failure of the employer to contest the matter in an effective manner.

16. Looking to all these circumstances together, the amount of Rs.2,00,000/- is found to be inadequate. It does not meet the ends of justice. It does not provide any real redress for the deprivation of livelihood which the petitioner has pleaded and which stands unrebutted. In the present case, the balance lies in enhancing the compensation to Rs.8,00,000/-. This figure is not treated as an substitute for full back wages. It is fixed as a reasonable lump sum, having regard to the admitted monthly wages, the period of unemployment stated on oath, the short service put in by the petitioner, the absence of rebuttal evidence from the respondent, and the need to close the dispute with finality.

17. In view of the foregoing discussion, and upon overall assessment of the material submissions, evidence on record, and the findings arrived at hereinabove, the following order is passed:

- (i) The writ petition is partly allowed;
- (ii) The Judgment and Award dated 19 January 2024 passed by the Labour Court, Pune in Reference (IDA) No.58 of 2018 is modified only to the extent of quantum of compensation;

- (iii) The compensation amount awarded to the petitioner is enhanced from Rs.2,00,000/- to Rs.8,00,000/-;
- (iv) The respondent shall pay the aforesaid amount of Rs.8,00,000/- to the petitioner within a period of eight weeks from the date of this order;
- (v) In the event the respondent fails to pay the said amount within the stipulated period, the amount shall carry simple interest at the rate of 9% per annum from the date of this judgment till actual realization;
- (vi) Rule is made partly absolute in the aforesaid terms.
- (vii) There shall be no order as to costs.

(AMIT BORKAR, J.)