

Sayali

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

WRIT PETITION NO. 7793 OF 2025

**SAYALI
DEEPAK
UPASANI**

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SAYALI DEEPAK
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Date: 2026.05.07
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Rajkumar Harishankar Jaiswal

Age- 52 years, Occupation Nil

C/o- Awadh Narayan Kirana Stores,

Pipanna Sheth Chawl, Shastri Nagar,

Kalyan Road, Bhiwandi, District Thane

... petitioner

V/s.

1. Mohit Synthetic Pvt Ltd

2. Hari Bhagwan Nathmal Todi

3. Pawankumar Nathmal Todi

4. Kailas Sheth

H. No. 610, New Kaneri Shastri Nagar,

Kalyan Road, Bhiwandi, Dist. Thane

... respondents

Mr. Vaibhav Jagdale, for the petitioner.

Mr. Shailesh S. Pathak, for the respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 30, 2026

PRONOUNCED ON : MAY 7, 2026

JUDGMENT:

1. By the present petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner has invoked the writ jurisdiction of this Court for the purpose of assailing the legality, propriety, and correctness of the judgment and Award dated 3 July

2024 delivered by the learned Labour Court, Thane in Reference (IDA) No. 119 of 2018.

2. The factual matrix giving rise to the present proceedings, stated in brief but necessary detail, is that the petitioner came to be terminated from service by the respondents on 10 August 2017, which termination is alleged to be illegal and in contravention of statutory safeguards. Aggrieved thereby, the petitioner raised an industrial dispute which came to be referred for adjudication before the Second Labour Court at Thane and was registered as Reference (IDA) No. 119 of 2018. Upon adjudication, the Labour Court, by its Award dated 3 July 2024, partly allowed the Reference and granted compensation quantified at Rs. 2,00,000/-. The petitioner, being dissatisfied with the denial of reinstatement and full back wages up to the date of the Award, has approached this Court questioning the adequacy and legality of the relief granted.

3. It is the case of the petitioner that he was appointed in the service of the respondents on 5 December 2006 as a Mehta, and that his service record throughout the tenure remained unblemished and free from any adverse remark. The petitioner asserts that he was paid a monthly salary of Rs.14,000/- for a duty period ostensibly fixed at eight hours, though in actual practice he was required to work for nearly twelve hours daily. Despite such extended working hours, it is alleged that the respondents failed to extend statutory benefits including overtime wages, earned leave, leave encashment, weekly offs, holidays or any compensatory benefits in lieu thereof. According to the petitioner, he continued

in uninterrupted service from the date of appointment till the date of termination on 10 August 2017, and had completed more than 240 days of service in each year, thereby attracting statutory protection under the applicable labour laws. It is further alleged that the respondents did not maintain or issue identity cards or muster cards and resorted to threats of termination whenever such records were demanded by employees. The petitioner has further contended that the termination effected on 10 August 2017 was oral in nature and was carried out without compliance with any procedural safeguards. No notice of termination, charge-sheet, show cause notice or memo was issued prior to such termination. It is also the case of the petitioner that neither notice pay nor retrenchment compensation was paid, thereby rendering the termination ex facie illegal and violative of Sections 25F and 25G of the Industrial Disputes Act, 1947. Subsequent to the termination, the petitioner issued a demand notice dated 1 September 2017, which, according to him, evoked no response from the respondents. Consequently, the petitioner approached the Conciliation Officer at Bhiwandi, however, the conciliation proceedings failed on account of non-cooperation on the part of the respondents, culminating in a failure report dated 29 December 2017. Thereafter, the appropriate Government made a reference to the Labour Court for adjudication, which came to be registered as Reference (IDA) No. 119 of 2018.

4. In the said reference proceedings, the petitioner filed his Statement of Claim placing on record the entire factual foundation in support of his grievance. The respondent Nos. 2 to 4 entered

appearance and filed their Written Statement denying the allegations contained in the Statement of Claim. The petitioner has asserted that such denial is devoid of substance and unsupported by any cogent material. During the course of the proceedings, the petitioner moved an application dated 16 November 2021 seeking production of material documents including the Attendance-cum-Security Register, Payment Vouchers and Wage Register covering the period from 5 December 2006 to 10 August 2017. It is alleged that despite such application, the respondents failed and neglected to produce the said documents. The petitioner examined himself in support of his case, while respondent No. 3 tendered evidence on behalf of the respondents. Upon consideration of the pleadings and evidence on record, the learned Labour Court proceeded to pass the Award dated 3 July 2024, whereby the Reference was partly allowed. The Labour Court recorded a finding that the termination of the petitioner was illegal for want of due process. However, instead of directing reinstatement with consequential benefits, the Labour Court awarded a lump sum compensation of Rs.2,00,000/- payable by respondent Nos. 1 and 2.

5. On the basis of the said findings and the relief granted, it is urged on behalf of the petitioner that the impugned Award suffers from legal infirmity to the extent it denies reinstatement and full back wages, and, therefore, warrants interference in exercise of writ jurisdiction.

6. Mr. Vaibhav Jagdale, learned Advocate appearing on behalf of the petitioner, submitted that the Labour Court has committed an error in law as well as on facts in declining the relief of

reinstatement. It was urged that the Labour Court failed to properly appreciate the categorical case of the petitioner that he remained unemployed from the date of his termination and despite sincere and continuous efforts, he could not secure alternate employment. Learned counsel submitted that such assertion was not only pleaded in the Statement of Claim but was also reiterated on oath in the Affidavit in lieu of examination-in-chief, and in absence of any effective rebuttal, the same ought to have been accepted. It was further contended that the Labour Court did not undertake any rational or objective assessment of back wages and instead granted a lump sum compensation of Rs. 2,00,000/- without disclosing any basis for such quantification. According to the learned counsel, the petitioner has remained without employment from 10 August 2017 till the date of the Award, which spans a period of approximately seven years, and, therefore, the compensation awarded is wholly inadequate and disproportionate to the loss suffered.

7. Elaborating further, learned counsel for the petitioner submitted that once the termination is held to be illegal, the normal and logical consequence would be the grant of full back wages unless there exist exceptional circumstances justifying denial of such relief. It was contended that in the present case, there is no material on record to justify curtailment of back wages, and therefore the Labour Court has erred in restricting the relief to a nominal compensation of Rs. 2,00,000/-. Learned counsel submitted that the evidence on record clearly establishes continuous service and absence of gainful employment, and hence

the petitioner was entitled to full wages for the intervening period. On this premise, it was urged that the impugned Award is liable to be interfered with and set aside.

8. It was further submitted that the Labour Court has itself recorded a categorical finding that the alleged misconduct is not proved and that the termination is illegal. In such circumstances, it was contended, the relief of reinstatement with continuity of service and full back wages ordinarily follows as a natural consequence. However, the Labour Court, while denying reinstatement, has awarded only a meagre compensation, which according to the learned counsel, is not commensurate with the admitted last drawn salary of Rs.14,000/- per month. It was submitted that on a reasonable calculation, the petitioner would be entitled to an amount of not less than Rs.11.5 lakhs towards back wages for the relevant period. Learned counsel, however, fairly submitted that the petitioner is not pressing the relief of reinstatement at this stage, but strongly urged that the compensation awarded ought to be suitably enhanced to at least Rs.11.5 lakhs to meet the ends of justice.

9. Per contra, Mr. Shailesh S. Pathak, learned Advocate appearing on behalf of the respondents, opposed the petition and supported the impugned Award. It was submitted that having regard to the length of service and the last drawn wages of the petitioner, the Labour Court has exercised its discretion in a reasonable and judicious manner in awarding a lump sum compensation of Rs. 2,00,000/- in lieu of reinstatement with continuity and back wages. Learned counsel contended that the

grant of compensation in such cases is a recognized mode of relief and the quantum awarded cannot be said to be arbitrary or perverse so as to warrant interference under Articles 226 and 227 of the Constitution. On these grounds, it was prayed that the present petition be dismissed.

REASONS AND ANALYSIS:

10. I have considered the rival submissions with care and also the material which was placed before the Labour Court.

11. In *B. Choudhury v. Presiding Officer, Labour Court, Jamshedpur*, 1983 Lab IC 1755 the principles governing grant of compensation in lieu of reinstatement have been laid down in a manner which requires application to the facts of each case. Upon consideration of the question relating to grant of compensation, it has been observed that where the Labour Court records a finding of absence of misconduct, yet refrains from directing reinstatement, such refusal may be based upon the nature of duties discharged by the workman or other surrounding circumstances. In such a situation, compensation assumes the character of a substitute for reinstatement. It has been observed that no straitjacket formula exists for quantification of such compensation.

12. It has been observed that in England, statutory limits were prescribed under the Industrial Relations Act, 1971, later replaced by the Trade Union and Labour Relations Act, 1974, fixing a ceiling on compensation. In contrast, in several jurisdictions, the matter is left to the discretion of adjudicatory bodies, guided by statutory factors or prescribed limits. Reference has been made to

international labour standards as well. The principles enunciated by the Supreme Court of Sri Lanka in *Ceylon Transport Board v. A.H. Wijeratne*, 1976 (I) LLJ 182 provide guidance. The adjudicatory authority is required to assess not merely the loss of employment but also the loss of future prospects, injury to reputation, and opportunities for re-employment. Relevant considerations include the nature of employment, age, length of service, salary, future prospects, availability of alternate employment, past conduct, and the manner and circumstances of termination. It is also necessary to account for any income earned or reasonably capable of being earned post termination.

13. In the Indian context, it has been consistently held that no rigid criterion exists for quantifying compensation in lieu of reinstatement in cases where termination is found to be wrongful. In *S.S. Shetty v. Bharat Nidhi Ltd.* 1957 (II) LLJ 696, the Supreme Court observed that computation of the monetary equivalent of reinstatement involves consideration of future earnings, benefits, and prospects until the age of superannuation. Such assessment cannot be carried out with mathematical precision. It involves approximation based on reasoned estimation.

14. Judicial precedents show that compensation has been awarded on different considerations depending on facts of each case. In *Assam Oil Co. Ltd. v. Its Workmen*, 1960 (1) LLJ 587, compensation equivalent to two years' salary was granted, taking into account alternate employment and other payments. In *Utkal Machinery Ltd. v. Shanti Patnaik*, 1966 (1) LLJ 398 one year's salary was awarded having regard to the short duration of service.

In cases such as *Cooper Engineering Ltd. v. P.P. Mundhe* 1975 (II) LLJ 379, compensation equivalent to full wages from the date of dismissal till adjudication was granted. Similarly, in *Management of Monghyr Factory of ITC Ltd. v. Presiding Officer* 1979 LIC 1256, compensation for five years of benefits was awarded. In *Anil Kumar Chakravorty v. Saraswatipur Tea Co. Ltd.*, AIR 1982 Supreme Court 1062, a lump sum exceeding calculated back wages was considered appropriate. These decisions hold that quantification is dependent on facts of each case. It has been observed that such determination involves estimation and cannot exclude a degree of approximation.

15. The factors which emerge for consideration while awarding compensation in lieu of reinstatement include the amount of back wages, deprivation of future prospects, age of the employee, length of service, nature, and capacity of the employer, gainful employment or mitigation of loss, and the circumstances leading to termination including past conduct.

16. It has been observed that the aforesaid factors are merely illustrative and not exhaustive. The adjudicating authority must apply to the facts of each case and exercise its discretion accordingly.

17. The Labour Court has already found that the termination of the petitioner was illegal and that the misconduct was not proved. Once such finding is recorded, the dispute shifts to the nature of relief. In that field, the Court must see whether reinstatement is still a proper course, and if not, what sum would stand in place of

such relief. Compensation in lieu of reinstatement has to be fixed on a view of the whole matter.

18. The respondents have submitted that the Labour Court has rightly chosen compensation in lieu of reinstatement and that Rs. 2,00,000/- is just and proper having regard to the length of service and the last drawn wages. I am unable to accept that submission in its entirety. The last drawn salary is said to be Rs.14,000/- per month. Even on a rough calculation, a period of seven years would not be met by Rs.2,00,000/- if the Court is proceeding on the footing that the workman remained without employment and that the termination was illegal. The compensation fixed by the Labour Court does not appear to reflect the loss suffered. It also does not appear to have been supported by any reasoning showing how the figure was reached.

19. There is also merit in the petitioner's grievance that the Labour Court did not undertake any exercise to quantify the back wages or the compensation. The principles laid down in the decision in *B. Choudhury* show that several factors ought to be weighed. Some of them are the back wages which would have accrued, the age and length of service of the workman, the possibility of alternative employment, and the capacity of the employer. In the present case, the record shows that the petitioner worked for a substantial period, from 5 December 2006 till 10 August 2017. That means nearly eleven years of service. Such service cannot be treated as trivial. If the last drawn wages are accepted at Rs.14,000/- per month, the economic effect of termination is relevant. It is true that the exact monetary loss

cannot be calculated. But equally, the compensation cannot be reduced to a nominal amount which has no relation to the service lost.

20. The case of the respondents that Rs.2,00,000/- is inadequate when seen in the light of the evidence and the period involved. The amount is too low considering illegal termination and period of unemployment. At the same time, the figure suggested by the petitioner, namely Rs.11.5 lakhs, appears to be based on wages closer to full back wages. That claim cannot be accepted in full, because compensation in lieu of reinstatement is not always identical with full back wages. There is a difference between the two. The law does not insist that every illegal termination must be followed by a full wages for the entire period, unless the facts justify such a result. Here, though the case of the petitioner is strong, the absence of proof about every period of unemployment and the fact that reinstatement is not being pursued now, require the Court to strike a middle course.

21. On an overall assessment, I find that the Award of the Labour Court suffers from inadequacy only on the question of relief. Therefore, balancing all the material circumstances, I hold that the Award deserves modification only to the extent of compensation. The finding of illegal termination is maintained. The relief of reinstatement is not granted in the present facts.

22. In view of the foregoing discussion and for the reasons recorded hereinabove, the following order is passed:

- (i) The Writ Petition is partly allowed;

- (ii) The judgment and Award dated 3 July 2024 passed by the Labour Court, Thane in Reference (IDA) No. 119 of 2018 is modified to the limited extent of quantum of compensation;
- (iii) The finding recorded by the Labour Court holding that the termination of the petitioner is illegal is maintained;
- (iv) The relief of reinstatement is not granted in the facts and circumstances of the present case;
- (v) The compensation awarded to the petitioner is enhanced from Rs. 2,00,000/- to Rs. 6,00,000/-;
- (vi) The respondent Nos. 1 and 2 shall jointly and severally pay the enhanced compensation amount of Rs. 6,00,000/- to the petitioner within a period of eight weeks from the date of this order;
- (vii) In the event of default in payment within the stipulated period, the said amount shall carry interest at the rate of 6% per annum from the date of this order till realization;
- (viii) Rule is made partly absolute in the aforesaid terms. No order as to costs.

(AMIT BORKAR, J.)