

MPBalekar

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

WRIT PETITION NO. 9213 OF 2025

M/s. New World Paints Pvt. Ltd. ... Petitioner
V/s.
Suhas Dattatray Narkar ... Respondent

Mr. Dinesh C. Patankar for the petitioner.

Mr. Avinash D. Kango a/w Neha T. i/by Yash Legal for
the respondent.

CORAM : AMIT BORKAR, J.

DATED : MARCH 27, 2026

P.C.:

1. The present writ petition challenges the judgment and order dated 9 September 2024 passed by the Presiding Officer, Tenth Labour Court, Mumbai. By the said order, the Labour Court has held that the respondent is entitled to reinstatement with continuity of service along with 50 percent back wages with effect from 27 May 2020. The petitioner seeks to assail this finding. The challenge, therefore, is to the legality and correctness of the relief granted by the Labour Court.

2. The facts, as placed on record, show that the respondent was initially appointed as a Sales Manager in August 2016. According to him, though the designation given was managerial, the nature of duties performed by him were mainly clerical. This aspect assumes importance. Later, from 1 July 2017, his designation was

changed to Senior Sales Manager Project. However, it is his consistent case that even after such change in designation, the nature of duties remained the same. He continued to perform routine field and clerical work. It is further stated that prior to September 2019, he was drawing a salary of Rs. 50,000 per month. Thereafter, without any explanation, his salary was reduced to Rs. 25,000 per month from September 2019 till March 2020. This reduction is not shown to be supported by any document or justification from the employer. It is also stated that he was not paid salary for April 2020 and for 27 days of May 2020.

3. It is also brought on record that the affairs of the petitioner establishment were controlled by its Chairman. The respondent has stated that throughout his service he worked sincerely. There is nothing on record to show any misconduct. No memo, no warning, no charge sheet is shown to have been issued. This becomes relevant when termination is examined. The respondent received a relieving letter dated 27 May 2020. According to him, this was issued suddenly, without notice, and during the period of pandemic. The termination, therefore, is alleged to be arbitrary and not in accordance with law.

4. After termination, the respondent issued a demand letter dated 27 February 2021 seeking reinstatement with full back wages and continuity of service. The record shows that the demand was received by the petitioner. However, no relief was granted. The respondent, therefore, approached the Conciliation Officer. The conciliation proceedings failed. As a result, the dispute was referred for adjudication before the Labour Court. In the

reference, the respondent prayed that his termination be declared illegal and that he be reinstated with full benefits.

5. It is significant that though the petitioner appeared before the Labour Court, no written statement was filed. In absence of a written statement, the facts pleaded by the respondent remain uncontroverted. The Labour Court, therefore, proceeded on the basis of material placed by the respondent.

6. The Labour Court considered the relieving letter dated 27 May 2020. On the basis of available material, it came to the conclusion that the termination amounted to retrenchment. It also noticed that the mandatory requirements under the Industrial Disputes Act were not followed. In such circumstances, the Labour Court granted reinstatement with partial back wages.

7. Before this Court, the learned advocate for the petitioner contended that the respondent was holding the post of Senior Sales Manager and was drawing a salary of Rs. 50,000. On this basis, it is argued that he was not a workman.

8. However, this contention cannot be accepted in the present facts. The designation and salary alone are not decisive. What is important is the nature of duties actually performed. The respondent has clearly stated on oath that his duties were mainly clerical. He has described that he used to visit societies, meet office bearers, and collect product approvals. These duties do not indicate managerial or supervisory control. They are routine and execution oriented. Such statements have not been denied. No written statement was filed to dispute these facts. In absence of

challenge, the statements made on oath must be accepted. Therefore, the conclusion that the respondent is a workman is justified.

9. The petitioner has attempted to explain the failure to file written statement by stating that the brother of the petitioner was seriously ill. This explanation is not sufficient. The record shows that the petitioner had appeared before the Labour Court and had engaged an advocate. Vakalatnama was filed on 11 October 2023. Even thereafter, no written statement was filed. The reason now given does not explain the continued inaction. It cannot be treated as a valid ground. As a result, the Labour Court had no option but to proceed on the basis of unchallenged material. The finding that the termination amounts to retrenchment without following due procedure is based on evidence and cannot be termed erroneous. The employer has not shown compliance with statutory provisions such as notice or compensation. In such circumstances, the order of reinstatement is a logical consequence.

10. Having considered the entire material, no error is found in the approach or conclusion of the Labour Court. The findings are based on evidence. There is no perversity. The writ jurisdiction does not permit reappreciation of facts unless there is clear illegality. No such case is made out.

11. It is further directed that if the petitioner pays the entire dues as directed by the Labour Court, then upon verification of such payment, the executing Court shall pass appropriate orders for defreezing the account of the petitioner.

12. Accordingly, the writ petition stands dismissed.

(AMIT BORKAR, J.)