
(1992) 06 BOM CK 0024
In the Bombay High Court
Case No : Writ Petition No. 2994 of 1984

Arun Vaman Apte

APPELLANT

Vs

Arvind Mohaniraj Pathak and Another

RESPONDENT

Date of Decision : 23-06-1992

Acts Referred:

Citation : (1994) 3 LLJ 761

Hon'ble Judges : H.H. Kantharia, J

Bench : Single Bench

Advocate : A.V. Anturkar, for the Appellant; N.M. Ganguli and Leels Mehtra for R-1 and Neeta Masurkar, Asst. Govt. Pleader for R-2, for the Respondent

Final Decision : Dismissed

Judgement

H.H. Kantharia, J.—This Writ Petition arises from the judgment and order passed by the learned Labour Judge presiding over the First Labour Court, Pune on October 29, 1983 in Complaint (ULP) No. 21 of 1980.

2. The relevant facts giving rise to the

Writ Petition are as under:

The first respondent workman, Arvind Mohaniraj Pathak, was in the service of the petitioner-employer as a Junior Architect: from 15.2.1979 on consolidated monthly salary of Rs. 500/-. On 14.2.1980 at about 8.30 a.m. when he was about to complete his regular work of Bhosari Scheme, the petitioner Arun Vaman Apte went to his cabin along with another architect by name Bhat. The petitioner Apte asked the said Bhat to sign the tracings prepared by the first respondent when it was noticed that there was endorsement on the tracing as "copy right" and, therefore, he refused to sign it. The petitioner asked the first respondent to strike off the endorsement "copy right" which was not agreed upon by the first respondent. The petitioner asked the first respondent to leave the office immediately when the first respondent asked order in writing which was also refused and it is the case of the first respondent that he was physically

pushed out of the office and thus his services were terminated. Recording to him, when his services were terminated he was not paid his earned wages, retrenchment compensation and wages in lieu of notice. He, therefore, filed unfair labour practice complaint covered by items (a), (b) and (d) of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 against the petitioner in the Labour Court at Pune and claimed reinstatement with full back wages.

The complaint was resisted by the petitioner contending that the first respondent was not a qualified architect and that his services were not terminated. According to the petitioner, the first respondent himself absented from work and left the services and further contended that the drawing and sketches prepared by the first respondent while in his employment were his property and the first respondent had no "copy right" in the same. Repeating his contention that the first respondent had abandoned the services, the petitioner urged that he had not indulged in any unfair labour practice and, therefore, the complaint be dismissed.

3. On appreciation of the evidence adduced before him, the learned Labour Judge came to the conclusion that the services of the first respondent were illegally terminated and that the petitioner has indulged in unfair labour practice and, therefore, the first respondent was entitled to reinstatement and back wages at the rate of Rs. 500/-per month from the date of the termination of his services till the date of reinstatement. Being aggrieved, the petitioner-employer invoked the supervisory writ jurisdiction of this Court under Article 227 of the Constitution by filing the present writ petition.

4. Now, about the qualification or otherwise of the first respondent workman we are not concerned. However, it is an admitted fact that he was in the employment of the petitioner from 15.2.1979 to 14-2-1980. The evidence of the first respondent shows that on the day in question he was asked to leave the work premises and that is how his services were terminated. From the evidence of the first respondent it is clear that the petitioner terminated his services by an oral order and when that was done the first respondent was neither paid wages in lieu of notice nor retrenchment compensation and admittedly he had worked for more than 240 days in a year. That shows that the services of the first respondent were illegally terminated. There is no evidence on record except the pleading of the petitioner that the first respondent had abandoned services. I am not persuaded to accept this contention of the petitioner in the absence of any credible and satisfactory evidence. The learned Labour Judge, therefore, was not wrong in holding that the services of the first respondent were illegally terminated. This would amount to unfair labour practice on the part of the petitioner-employer covered by items (a), (b) and (f) of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971 according to which it is unfair labour practice on the part of an employer to discharge or dismiss an employee by way of victimisation or not in good faith but in colourable exercise of employer's right and with undue

haste.

5. Once having come to the conclusion that the petitioner-employer had indulged in unfair labour practice, the learned Labour Judge was not wrong in granting relief of reinstatement with full back wages to the first respondent- workman because it is well settled law that reinstatement has to be followed by an order of full back wages.

6. In this view of the matter, I find no infirmity in the impugned judgment and order passed by the learned Labour Judge and by no stretch of imagination it can be said that the same are perverse. There is thus no merit in this writ petition which deserves to be rejected.

7. In the result, the Writ Petition fails and the same stands rejected. Rule is accordingly discharged with costs. Interim relief granted earlier also stands vacated.