

(2015) 04 BOM CK 0371

In the Bombay High Court

Case No : Writ Petition No. 5276 of 2007

Maharashtra Remote Sensing Application Centre

APPELLANT

Vs

Deepak Jangluji Khandale and Others

RESPONDENT

Date of Decision : 30-04-2015

Acts Referred:

Industrial Disputes Act, 1947 — Section 25H

Citation : (2015) 6 ALLMR 400 : (2016) 1 MhLj 570

Hon'ble Judges : R.K. Deshpande, J.

Bench : Single Bench

Advocate : A.R. Patil, Advocate, for the Appellant; V.P. Marpakwar and Rashi Deshpande, AGP, for the Respondent

Final Decision : Allowed

Judgement

R.K. Deshpande, J.—This petition challenges the judgment and order dated 07.02.2007 passed by the Industrial Court in Complaint ULPA No. 292 of 1999. The complaint invoking Item Nos. 5 and 9 of Schedule IV of MRTU and PULP Act on the basis of Section 25H of the Industrial Disputes Act, has been rejected, but the employer is directed to consider the complainant for reemployment as and when the work is available. In order to attract the provisions of Section 25H of the Industrial Disputes Act what is required to be establish is that the complainant was retrenched from service and the employer proposed to take into his employment any person. The Industrial Court has recorded the finding that the question of retrenchment cannot be considered and there are no details given about the employment of juniors in supersession of the claim of the complainant. It is not the finding recorded that respondent was retrenched from employment and that the employer had proposed to provide employment to any person on the date of filing of the complaint. The alleged retrenchment was of 31.03.1991 and the complaint was filed in the year 1999 without making out the case of employment being provided to any other person. The Industrial Court having rejected the claim, could not have issued the direction to the employer

directing reemployment as and when the work is available. The Judgment and order passed by the Industrial Court cannot, therefore, be sustained. The same will have to be quashed and set aside.

2. In the result, writ petition is allowed. The Judgment and order dated 07.02.2007 passed by the Industrial Court in Complaint ULP No. 292 of 1999 is hereby quashed and set aside. The said complaint is dismissed.

Rule is made absolute in these terms. No order as to cost.