

(2000) 06 BOM CK 0117

In the Bombay High Court

Case No : Writ Petition No. 6942 of 1999

Maharashtra State Road Transport Corpn.

APPELLANT

Vs

Abdul Usman Meboob Shaikh

RESPONDENT

Date of Decision : 12-06-2000

Acts Referred:

Constitution of India, 1950 — Article 227
Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices
Act, 1971 — Section 28(1)

Citation : (2000) 3 ALLMR 283 : (2000) 4 BomCR 362

Hon'ble Judges : A.M. Khanwilkar, J

Bench : Single Bench

Advocate : G.S. Hegde, for the Appellant; M.R. Deshpande, for the Respondent

Judgement

A.M. Khanwilkar, J.—This writ petition under Article 227 takes exception to the order passed by the Industrial Court, Solapur dated 31-3-1999 in Revision (ULP) No. 14 of 1996 as well as the order passed by the Labour Court, Solapur in Complaint (ULP) No. 40 of 1990. The original complaint was filed by the respondent challenging the order of termination. The original complaint was allowed by the Labour Court on 19-1-1996 by the following order :

- "1. The complaint of the complainant is hereby partly allowed as under :
2. It is hereby declared that the respondents have engaged in an unfair labour practice in dismissing the complainant from service.
3. It is hereby directed that the respondent to cease and desist from such unfair labour practice.
4. The respondents are hereby directed to reinstate the complainant on his original post from which he was dismissed with continuity of service and to pay 50% backwages, within one month from the date of this order.
5. In the circumstances of the case parties to bear their own coats."

2. The petitioner preferred revision petition before the Industrial Court at Solapur challenging the order directing reinstatement and payment of backwages passed by the Labour Court in favour of the respondent. The respondent on the other hand filed separate revision application before the Industrial Court, Solapur asking for enhancement of backwages. Both the revision applications have been heard and decided together by the Industrial Court, Solapur. The Industrial Court was pleased to pass the following order :

"i. Revision Application i.e. Revision ULP No. 14/1996 and 16/1996 are hereby dismissed.

ii. Interim order passed below Ex. C-2 in Revision ULP No. 14/1996 dated 15-2-96 is hereby set aside.

iii. The Record and Proceedings of the original complaint be returned back to the concerned Labour Court, forthwith.

iv. No order as to costs."

3. The present writ petition has been filed by the petitioner Corporation. It is pertinent to mention that the respondent has accepted the order passed by the Court below. The main contention on behalf of the petitioner is that the Industrial Court has mechanically decided the revision application without independently assessing each issue which was under challenge before it. According to the learned Advocate for the petitioner the Industrial Court has merely said that prima facie it does not find any infirmity in the finding recorded by the Labour Court and therefore it refused to interfere. It is true that the Industrial Court was exercising revisional jurisdiction, however, it has, in the present case, not examined the diverse contentions raised on behalf of the parties. It is seen from the impugned judgment that the Tribunal has not considered the various points raised on behalf of the petitioner, on the other hand it has merely recorded its approval to the finding reached by the Labour Court generally. This is surely not a satisfactory way of deciding the revision application by the Industrial Court. What is expected of the Industrial Court, even while exercising its Revisional Jurisdiction, is to record the rival contentions and adjudicate the same on merits by recording a clear finding with regard to each contention raised by the parties, in my view, the Industrial Court has not properly exercised its jurisdiction, for having failed to adjudicate the rival contentions on merits in detail. This Court, therefore, has no option but to remand the matter to the Industrial Court to re-examine the same in accordance with law. The other course open for this Court was to examine the correctness of the decision of the Labour Court in this writ petition as prayed for by the petitioner, but in the interest of justice it would be appropriate that the Industrial Court decides the rival contentions in the first instance. This course would also benefit the High Court with a reasoned order of the Industrial Court. In the circumstances, I am disposed to remand and restore both the Revision Application Nos. 14 and 16 of 1996 on the file of the Industrial Court, Solapur for deciding the same in accordance with law. Needless to

mention that services of the respondent have been terminated in February, 1990 and since then he is out of service. It would, therefore, be appropriate that the Industrial Court decides both the revision applications within three months from the date of receipt of this order. Parties are directed to appear before the Industrial Court, Solapur on 26-6-2000. It would be open to the respondents to make an application seeking appropriate relief during the pendency of the proceedings before the Industrial Court, which, I hope and trust would be decided by the Industrial Court in accordance with law. Both the parties have assured this Court that they will not unnecessarily delay the proceedings but fully co-operate the Industrial Court in deciding the matter within the stipulated period as aforesaid. Parties to act on copy of minutes of order duly authenticated by the Sheristedar of this Court.

4. Matter remanded to Industrial Court.