

Rev./ULP/No./01/2018

Judgment

Received On :15.02.2018

Registered On:15.02.2018

Decided On :04.04.2018

Duration :0Y,1M,20D

Exh. O/4

-:IN THE INDUSTRIAL COURT AT LATUR:-
(BEFORE SHRI. S.S. KHANDEKAR, MEMBER)

-:Rev/ULP/No./01/2018:-
(CNR No.-MH-IC-24-000020-2018)

1. Nagar Panchayat, Deoni,
Tq. Deoni, Dist. Latur
Through its Chief Officer
Age: 30 Years, Occ. Service
R/o. Deoni, Tq. Deoni,
Dist. Latur, Mob:
2. Sarpanch, Gram Panchayat
Office, Deoni (Bk)
Tq. Deoni, Dist. Latur
R/o. Deoni, Tq. Deoni,
Dist. Latur
3. Gramsevak,
Gram Panchayat Office,
Deoni (Bk) Tq. Deoni,
Dist. Latur R/o. Deoni,
Tq. Deoni, Dist. Latur

:Revision Petitioners/
Ori. Respondents

-VERSUS-

1. Namdeo Tukaram Patange,
Age 53 Years, Occ. Nil,
R/o. Behind State Bank of
India, Gandhi Chowk, Deoni,
Tq. Deoni, Dist. Latur

2. Santosh (Pintu) Raghunath Kamble,
Age: 34 Years, Occ. Nil,
R/o. Behind State Bank of
India, Gandhi Chowk, Deoni,
Tq. Deoni, Dist. Latur

:Respondents/
Ori. Complainant

IN THE MATTER OF REVISION PETITION U/S. 44 OF
THE M.R.T.U. & P.U.L.P. ACT, 1971

APPEARANCES : Adv. N.L. Madhware for
Revision Petitioner
: Adv. S.G. Shinde for Respondents

-.JUDGMENT:-
(DICTATED IN OPEN COURT ON 04.04.2018)

1. Being aggrieved by the Judgment dated 12.01.2018 passed by the Ld. Labour Court, Latur in Com./ULP/No./74/2013, the revision petitioners have preferred instant Revision Petition. The litigating parties are referred as per nomenclature in original proceeding before the Ld. Labour

Court i.e. the respondents/ complainants are hereinafter referred as the 'complainants' and the revision petitioners/ employer herein is referred as 'respondents' for the sake of convenience.

2. The necessary facts of the complaint in brief are as follows:

The complainant No.1 was working with the respondents since 05.03.1996 on the post of Safai Kamgar. The complainant No. 2 is working since 07.08.2005 on the post of Divabatti karmachari/electrician. The respondents by engaging into unfair labour practices dismissed the services of complainants with effect from 11.11.2013. The services of the complainants are clean and unblemished. On 16.01.2013 the complainants along with other workmen had made representation for their bonafide and legal demands. Thereafter the workmen of Gram Panchayat Deoni persuaded the said matter from time to time. The respondents being aggrieved of the steps taken by the complainants resorted to unfair labour practices and thereby terminated the services of the complainants. Therefore the complainant urged for declaration and quashing of the dismissal order dated 11.11.2013. The complainants prayed for declaration

of unfair labour practices and grant of relief of reinstatement with continuity in service and full back wages. The complaint came to be filed on 16.12.2013, before the Ld. Labour Court, Latur.

3. Notice came to be issued to the respondents on 20.12.2013. The Sarpanch and the Gram Sevak Gram Panchayat Deoni came to be served vide acknowledgement Exh. O-3 and O-4. The respondents have appeared through their counsel and sought time for filing say on 21.01.2014, 25.02.2014, 07.03.2014, 25.03.2014, 22.04.2014, 01.07.2014. In pursuance of the application dated 06.02.2016 Exh. U/12 Nagar Panchayat Deoni came to be added as respondent. The later added respondent, Chief Officer Nagar Panchayat Deoni is served vide acknowledgement Exh. O-7. In spite of opportunities the respondents did not file any written statement and the complaint proceeded further ex-parte vide order dated 25.04.2017.

The complainant No. 1 adduced evidence on behalf of both complainants in the form of affidavit exhibit U-20. In the facts and circumstances the Ld. Labour Court arrived at the conclusion that the respondents committed unfair labour practices under Item 1(f) of schedule IV of the MRTU & PULP Act

1971. Consequently through impugned Ex-parte Judgment termination order dated 11.11.2013 produced at Exh. U-26 and U-27 are quashed and set aside with direction to the respondents to reinstate the complainants employees with continuity in service and full back wages from the date of termination of their service till their reinstatement in service.

4. The record and proceeding were called for from the Ld. Labour Court, Latur and the same is received. The complainant did not file any separate say to the revision petition and relied upon the record and papers received from the Ld. Labour Court.

By way of grounds of appeal the revision petitioners contended that the Ld. Labour Court did not appreciate the facts and evidence of the complaint in proper perspective. The Ld. Labour Court seems to have confused and the reason given is the result of confusion and misunderstanding.

The Judgement came to be passed hurriedly and the same is extremely faulty and against the record. The revision petitioners followed due process of law and observed principles of natural justice while terminating the services of the respondents. Notices came to be issued to the respondents before termination on 12.03.2013, 24.08.2013 and resolution dated

06.09.2013 by conducting enquiry. The respondents remained absent in their official duty without prior intimation. The respondents were not performing official duties correctly and punctually. Due to this behaviour

of respondents the people of Deoni were facing problems. The impugned judgement is against the settled propositions of law. Therefore it is urged to quash and set aside the impugned Judgement. The revision petitioners filed documents along with list exhibit C/5.

5. On the basis of rival contentions, the following Points arise for my consideration and I answer to them as follows:

<u>S.N.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the Ld. Labour Court committed legal error apparent on the face of record and/or perverse findings requiring interference in revisional Jurisdiction U/s. 44 of the M.R.T.U. & P.U.L.P. Act 1971?	In the Negative.
2.	What order?	As per final order.

:-REASONS:-

6. **As to Point No. 1:** The revisional jurisdiction of this Court U/s. 44 of the M.R.T.U. and P.U.L.P. Act 1971 is very narrow. It is settled law that findings of facts cannot be disturbed and there cannot be re-appreciation of evidence. This Court is not exercising appellate jurisdiction but the same is vis-a-vis jurisdiction exercised by Hon'ble High Court under Article 227 of Constitution of India. But under appropriate circumstances the legality of the order and judgment passed by the Labour Court can be ascertained. Keeping these limitations in mind the instant revision petition is to be adjudicated.

7. The Counsel for the respondents argued that the Ld. Labour Court has not appreciated the facts in proper perspective. The revision petitioners followed due process of law and observed principles of natural justice while terminating the services of the respondents. Notices came to be issued to the respondents before termination on 12.03.2013, 24.08.2013 and resolution dated 06.09.2013 by conducting enquiry. The respondents remained absent in their official duty without prior intimation and were not performing duties correctly and punc-

tually. It is argued that therefore the impugned judgement is bad in law and liable to be quashed and set aside.

8. The Counsel for the respondents No. 1 & 2 supported the impugned Judgement. It is argued that for the period 2013 to 2016 the respondents remained absent before the Ld. Labour Court. In the year 2016 the gram panchayat Deoni came to be conferred with status of Nagar Panchayat. Thereafter also the respondents failed to contest the matter. The respondents did not follow any procedure before terminating the services of the complainants. This is not the proper stage to argue that the complainants were not performing their duties diligently when the respondents have not contested the complaint i.e. the original proceedings before the Ld. Labour Court. The respondents are not entitled for any relief. The names of the complainant exist in the staffing pattern. On 06.09.2013 it is resolved to issue fresh notice to the complainants but no such notice came to be issued. Therefore it is argued to reject the revision petition.

9. Heard the Ld. Counsels at length and perused the documents, R. & P. and case laws. It is the case of the complainants that their services came to be terminated without conducting any enquiry and without following the principles of natural jus-

tice. On the other hand the case of the respondents that prior to termination of services the complainants were not performing their duties diligently, remained absent without prior intimation and because of such absence the general public at large suffered inconvenience. It is also submitted that principles of natural justice were followed and enquiry was conducted and accordingly resolution came to be passed.

10. The Ld. Labour Court has given reasons in paragraph Number 11 to 14 in support of the conclusions. It is observed that the complainant have continuously worked for 240 or more days for 16 and 7 years respectively. The services came to be terminated stigmatically, without issuing any charge sheet and without conducting enquiry as per disciplinary proceedings and principles of natural justice. The termination is with undue haste and without giving opportunity. The respondents appeared but did not file any written statement. The contentions of the complainants are supported by their affidavits. Therefore the termination orders are quashed and set aside and complainants are granted reinstatement with continuity in service and full back wages.

11. It is a settled proposition that a *lis* decided on merits after contested by rival parties, is on a better footing than a matter decided ex-parte. But in the peculiar facts and circumstances of the present matter, it is seen that in case the complaint is remanded back for fresh adjudication, the complainants would be put to unreasonable hardship without there being any fault on their part. And no amount of costs and compensation can redress/reduce the prejudice that would be caused.

The revision petitioners were very well aware about the pendency of the complaint. They have also appeared in the complaint through their counsels. The complaint came to be filed on 16.12.2013 and was decided on 12.01.2018, therefore it was pending for 4 years and 26 days. Hence it cannot be concluded that the complaint came to be decided by Ld. Labour Court with undue haste. In the entire revision petition there is not a whisper as to what prevented the respondents from filing written statement and contesting the complaint on merits. It is submitted that the respondent employers have conducted enquiry against the complainants; but no such enquiry papers are placed on record. For the aforesaid reasons it follows that the revision petitioners utterly failed to demonstrate any illegality/apparent error in the impugned Judgment that warrants interfer-

ence under the revisional jurisdiction of this Court U/s. 44 of the M.R.T.U. & P.U.L.P. Act 1971. Therefore the revision petition is liable to be dismissed. Hence Point No. 1 is answered accordingly.

12. **As to Point No 2:** In the background of above factual premise as I have arrived at the conclusion that the revision petition is liable to be dismissed, therefore I proceed to pass the following order:

ORDER

1. The revision petition is dismissed.
2. No order as to costs.
3. The R. & P. received from Labour Court Latur be sent back forthwith.

(S.S.Khandekar)

Member,

Industrial Court, Latur.

Latur/Dtd.04.04.2018.

Arguments Heard On : 31.03.2018
Judgment Dictated On : 04.04.2018
Judgment Transcribed On : 04.04.2018
Checked and signed On : 04.04.2018