



EXH. O-

Received on : 13/09/2019
Registered on : 16/09/2019
Decided on : 27/07/2022
Duration : 02Y, 10M 11D.

**BEFORE K. R. ADAKE, PRESIDING OFFICER,
FIRST LABOUR COURT, KOLHAPUR.
(JO CODE-MH-2980)**

REFERENCE (IDA) NO.12/2019
(CNR NO : MHLCO9-000258-2019)

Shri. Prakash Kharge Karkhana,
Proprietor Shri. Prathamesh Kharge,
Ward No.22, Home No.28,
Ganeshnagr, Galli No.6,
Ichalkaranji,
Tal. :- Hatkanangale, Dist. :- Kolhapur.

... First Party

And

Shri. Sanjay Bapu Patil
C/o. Karveer Kamgar Sangh (ITK)
16/1029, Gokul Chowk, Ichalkaranji,
Tal. Hatkanangale, Dist. :- Kolhapur.

... Second Party

*In the matter of reinstatement
with continuity of service and
full back wages.*

CORAM : K. R. ADAKE, PRESIDING OFFICER.

Appearance : First Party :- Absent
: Representative Shri. H. G. Lohar for Second Party.

EX-PARTE AWARD
(Passed on : 27/07/2022)

1] Present Reference is forwarded by the Deputy
Commissioner of Pune under-12(4) of the Industrial Disputes Act,

1947 to consider; whether the First party had illegally terminated services of Second party w.e.f. 03/08/2018 and whether the Second Party workman is entitled for reinstatement with continuity of service, full back wages and other consequential benefits.

Facts of the case in brief are as under :

2] According to Second Party, he was working with the First party since 01/11/2017 as a “Vinkar”. He was getting Rs. 9,000/- as monthly wages. On 03/08/2018, as usual he went to resume his work, however, the First party has orally terminated his services. On 21/08/2018, he filed complaint to Government Labour Officer and requested to reinstate but he was not reinstated in employment. He time to time visited the First Party and requested to hire him but the First Party promised to think about it but no fulfillment was done. Before termination, no opportunity of hearing was given to him. The First party has not given notice or notice pay to him. The First party had illegally and without following due process of law had terminated his services. The act of the First party to terminate the services of the Second party is illegal and unfair. He prayed to allow the reference.

3] The First party though served properly, failed to remain present before the Court. Hence, by an order dated 07/06/2022 below Exh. O-1, the matter proceeded ex-parte against the First party.

4] Following points arise for my consideration and I have recorded my findings thereon.

POINTS		FINDINGS	
1)	Does Second party prove that he was orally terminated from services on	:	" <i>In the Affirmative</i> "

	03/08/2018 ?		
2)	Does Second party entitled for the reliefs as prayed against the First party ?		<i>"Partly in Affirmative"</i>
3)	What award?	:	<i>"As per final order"</i> .

5] The Second Party workman has filed his evidence affidavit at Exh.UW-1 and closed his evidence by filing pursis at Exh.U-6. Heard Representative Shri. H.G. Lohar for the Second Party.

REASONS

AS TO POINT NOS. 1 TO 2 :-

6] I have gone through record of the proceeding. The Second Party workman has come up with the specific case that, his services were illegally and orally terminated w.e.f. 03/08/2018. To prove and substantiate his case, he has filed evidence affidavit at Exh.UW-1. In his affidavit, he specifically stated that, he was working with the First Party as a "Vinkar" since 01/11/2017. His last drawn wages were Rs. 9,000/- per month. On 03/08/2018, the First Party has illegally terminated the services of the Second Party. The First Party contravened mandatory provisions of Industrial Dispute Act, 1947. After his termination, he is unemployed. The Second Party workman has sent a demand notice to the First Party, however, the First Party has not responded the same.

7] The stand of the Second Party workman remained unchallenged before this Court. The First Party failed to resist the claim as well as evidence of the Second Party. The behavior of the First Party shows that, it is not interested to defend the matter. Considering the pleadings as well as evidence led before me by the Second Party, I am of the opinion that the Second Party has proved his case that the First

party had orally and illegally terminated his services. The Second party also proved that he is entitled to relief with continuity of service, full back wages and other consequential benefits but not entitled for any cost. Therefore, I answer point No. 1 “In the Affirmative” and point No.2 “ partly in the Affirmative” and proceed to pass following award :

AWARD

- (i) The Reference is answered partly in Affirmative.
- (ii) The First Party is hereby directed to reinstate the Second Party workman with continuity of service, other consequential benefits and full back wages from the date of termination till the date of his reinstatement.
- (iii) No order as to costs.
- (iv) The copies of Award be forwarded to Deputy Commissioner of Labour, Pune for information and necessary action.

Kolhapur.
Dated :27/07/2022.

(K. R. Adake)
Presiding Officer,
First Labour Court, Kolhapur.

Argued on : 22/07/2022
Judgment dictated on : 27/07/2022
Judgment transcribed on : 27/07/2022
Judgment checked and signed on : 27/07/2022