

Date of Presentation : 08/05/2014
Date of Registration : 08/05/2014
Date of Judgment : 27/04/2015
Duration : Y. M. D.
00 11 19

Reference (IDA) No.67/2014

Exhibit. No. O-

BEFORE THE JUDGE, LABOUR COURT (II) AURANGABAD
(Presided over by A. S. Awate)

The Manager,
M/s Ahmednagar Forgings Ltd.,
B-20, Star MIDC. Shendra,
Aurangabad ... First Party

VERSUS

Dhangare Shyam Tulsiram
Age :- Major Occ. :- Nil
R/o Plot No.535 No.65 / p
Ravigandhi Nagar, M.Wada,
Aurangabad. ... Second Party

Advocates : Mr. V.N. Upadhye, Counsel for the First Party.
Mr. B.R.Kawre, Counsel for the Second Party

J U D G M E N T

(Delivered and pronounced in the open court on 27/04/2015)

The Appropriate Government by an order dt.29/04/2014 passed U/s.10(1) r.w. Sec.12(5) of the Industrial Disputes Act, 1947 has referred this dispute in following terms:

“Whether Dhangare Shyam Tulsiram (Machine Operator) should be reinstated with continuity of service and full back-wages w.e.f. 15/02/2014 ?”

1. Second party filed his statement of claim below Exh.No.U-2. It is a claim of the second party that, first party is a company incorporated under the provisions of Companies Act, 1956. First party is a manufacturer of forging components, flies wheel wring gears and medium size automobile components. It is a claim of the second party that, he joined the first party as

a Operator on 29/01/2011. After completion of training period he was appointed as a probationer for 6 months. After completion of probation period he was appointed as a regular employee of the first party. It is further claim of the second party that, Ahmednagar Forging Limited Aurangabad Kamgar Sanghatana is a registered Trade Union having 58 workmen as its members was working at the relevant time at the establishment of the first party. He was not a member of this trade union. On 13/11/2013 first party entered a wage agreement with this trade union. But the benefits of this wage agreement was not extended to him though he was eligible to get these benefits. Under these background he joined Bhartiya Kamgar Union on 02/02/2014. It is a claim of the second party that, only because he has joined Bhartiya Kamgar Union he was terminated on 15/02/2014. It is a claim of the second party that, no proper procedure was followed while terminating his service. No notice was served, nor wages for notice period were paid nor retrenchment compensation was paid while passing the termination order. The reasons assigned for termination are also not legal. By way of victimization and unfair labour practice he was terminated from service. After his termination he is not employed at any other establishment. So, he prayed that termination order dated 15/02/2014 be quashed and set-aside and first party be directed to reinstate him with continuity and back-wages.

2. First party appeared in this reference through an Advocate, but failed to submit its written statement. No written statement order is passed below Exh.O-1 on 18/12/2014.

3. Second party has lead his oral evidence at Exh.U-3. Second party filed his examination-in-chief on affidavit and reiterated all the contents of his statement of claim. Second party has also placed on record the appointment order (Exh.U-6) and payment slip (Exh.U-7).

4. From the evidence placed on record by the second party it reveals that second party has worked continuously with the first party as defined by section 25B of Industrial Dispute Act. First party has not complied section 25F of Industrial Dispute Act while passing the termination order. No

charge-sheet was issued nor enquiry was conducted against the second party workman before passing the termination order. First party also failed to prove the justification of termination order. So, the termination order is not valid in law. From the evidence of the second party it also reveals that he is not gainfully employed after his termination. So, present reference is required to be allowed with costs. With this conclusion I proceed to pass following order.

ORDER

- 1] Reference is allowed with costs.
- 2] It is hereby declared that, the termination order dated 15/02/2014 is not legal. Accordingly, the termination order is quashed and set-aside.
- 3] First party is directed to reinstate the second party with continuity and back-wages from the date of termination order.
- 4] First party shall pay Rs.5,000/- to the second party towards costs of this reference.
- 5] Award be sent to the Appropriate Government for its publication as per law.

Date : 27/04/2015
Place: Aurangabad

(A.S. Awate)
Judge,
Labour Court (II), Aurangabad.

Dictated on : 27/04/2015
Typed on : 27/04/2015
Signed on : 27/04/2015
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