

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2094 OF 2009

Nehru Science Centre .. Petitioner

Versus

Sulabha D. Khot & Anr. .. Respondents

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- Mr. Vijay Vaidya a/w Mr. Rachit Bhawada and Mr. Vipul Patel i/by Haresh Mehta & Co for Petitioner
 - Mr. Vinayak Pandit i/by Mr. Ajinkya M. Udhane for Respondent No. 1
 - Mr. Jayprakash Sawant for Respondent No. 2

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 04, 2023

P.C.:

1. Heard Mr. Vaidya, learned Advocate for Petitioner, Mr. Pandit, learned Advocate for Respondent No. 1 and Mr. Sawant, learned Advocate for Respondent No. 2.

2. Present Petition is filed in the year 2009. Interim order passed in the Petition requires the Petitioner to deposit 50% back wages as per the impugned order / award which has been deposited by the Petitioner.

3. Briefly stated Respondent Nos. 1 and 2 were employed with the Petitioner as Lower Division Clerk & Mechanic. They both were charge sheeted in the year 1995, enquiry was held in respect of the charges levelled against them and by order dated 05.12.1997, both the

Respondents were directed to be retired compulsorily from service of the Petitioner. Respondents being aggrieved approached the Labour Court wherein Part-I award was passed holding that the enquiry was not fair but reserving the right of the Petitioner to lead evidence in the event if Petitioner would be able to prove the same. Petitioner approached this Court by way of a Writ Petition which came to be disposed of keeping the right of the Petitioner alive to lead evidence at the time of Part-II award.

4. Mr. Vaidya, learned Advocate for Petitioner would submit that Petitioner thereafter led evidence and also argued the quantum of Part-II award before the learned Labour Court wherein the order impugned in the present Petition came to be passed.

5. The impugned order directs reinstatement of both Respondents in the employment of the Petitioner with 50% back wages. When the Petition was heard in the year 2009, interim order was passed directing Petitioner to deposit the entire amount of 50% back wages which came to be deposited in this Court. Mr. Vaidya would fairly submit that the amounts payable to the workmen under Section 17-B of the Industrial Disputes Act during the interregnum were paid to the Respondents until the date of retirement of Respondent No. 1 on 31.07.2020 and Respondent No. 2 on 30.03.2011.

6. As stated above both the Respondents having been retired, the impugned order will have to be examined by the Court on its own merits with reference to the reasons given therein. However, considering the fact that 50% back wages have already been deposited in Court, I have impressed upon both the learned Advocates who are Senior members of the Bar to resolve the issue by an amicable settlement, if possible, without prejudice to the rights and contentions of both the parties solely in view of the fact that both the Respondents have now stand retired / superannuated. Respondent No. 2 is 71 years old and therefore he has instructions to resolve the matter, if it is possible. Mr. Vaidya in his usual fairness would submit that considering the fact that Petitioner is a Government Concern and an autonomous body functioning under the Ministry of Culture, Government of India, he shall obtain appropriate instructions and inform the Court accordingly on the next date.

7. Stand over to **26th September, 2023.**

Amberkar

[MILIND N. JADHAV, J.]

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