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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2901 OF 2011

Anil Gajanan Mane,
Jagannath Complex, Chinchwad
Station, Pune 411 019

... Petitioner

Vs.

The Thane Janata Sahakari Bank Ltd.,
Prestige Complex, 3rd Floor,
Acharya Anand Rishi Marg,
Chinchwad, Pune 411 019

... Respondent

ATUL
GANESH
KULKARNI

Mr. Nitin A. Kulkarni for the petitioner.

Ms. Gunjan Thakkar for the respondent-Bank.

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by ATUL
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CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 17, 2026.

PRONOUNCED ON : APRIL 30, 2026

JUDGMENT:

1. By the present writ petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner has assailed the judgment and order dated 7 December 2010 passed by the Industrial Court in Revision Application (ULP) No. 54 of 2009.

2. The facts and circumstances giving rise to the filing of the present writ petition, as set out by the petitioner, are that the



petitioner came to be appointed in service as a Peon on 19 September 1995 with the erstwhile bank, namely Shri Sadguru Jangli Maharaj Bank Limited. Thereafter, on 31 March 1999, the petitioner instituted a complaint alleging unfair labour practice before the Industrial Court at Pune, inter alia claiming the relief of permanency. The said complaint came to be allowed by the Industrial Court by judgment and order dated 17 July 2001, whereby permanency was granted in favour of the petitioner. It is the case of the petitioner that during the pendency of the aforesaid complaint, his services came to be terminated by the Bank with effect from 31 March 1999. Being aggrieved thereby, the petitioner filed a complaint before the Labour Court in the month of January 2002 challenging the termination order dated 26 March 1999. In the meantime, the erstwhile Shri Sadguru Sahakari Bank came to be merged and amalgamated with Thane Janata Sahakari Bank Limited on 17 July 2007. The Labour Court, by its judgment and order dated 20 March 2009, partly allowed the complaint and directed the Bank to reinstate the petitioner with continuity of service, though without back wages. In the alternative, in lieu of reinstatement with continuity of service, the Labour Court directed payment of compensation of Rs.75,000/- to the petitioner together with costs quantified at Rs.1,000/-. Being dissatisfied with the said order, the petitioner preferred a revision application challenging the same. The Bank also instituted a separate revision application in the month of May 2009 questioning the order passed by the Labour Court.



3. By the common judgment and order dated 7 December 2010, the Industrial Court was pleased to quash and set aside that part of the Labour Court's order directing reinstatement with continuity of service, though without back wages, and instead enhanced the compensation payable to the petitioner to a lump sum amount of Rs.2,00,000/-. Being aggrieved by the said judgment and order, the petitioner has preferred the present writ petition.

4. Mr. Kulkarni, learned Advocate appearing for the petitioner, submitted that the Industrial Court has not disturbed the categorical findings recorded by the Labour Court that the respondent Bank had engaged in unfair labour practice falling under Item 1 of Schedule IV of the MRTU & PULP Act. According to him, once such finding was maintained, the consequential relief ought ordinarily to have followed. He further contended that the Labour Court declined back wages only on the ground that there was no specific averment in the complaint regarding unemployment of the petitioner after termination. However, the Labour Court failed to take into consideration the affidavit filed by the petitioner at Exhibit U-8, wherein it was specifically stated on oath that the petitioner was not gainfully employed anywhere and was, therefore, entitled to full back wages. It was urged that once such sworn statement was placed on record, the burden shifted upon the employer to establish that the petitioner was gainfully employed elsewhere. Since no such evidence was adduced by the Bank, the denial of back wages was unsustainable. Learned counsel further submitted that after observing that the order of the



Labour Court was contrary to Section 30(1)(b) of the Act, the Industrial Court ought to have granted full relief. He submitted that once non-compliance of Section 25(F) of the Industrial Disputes Act was also noticed, and the findings of the Labour Court were not held perverse, there was no justification to substitute reinstatement by compensation.

5. Learned counsel further submitted that the legal position relating to grant of compensation in lieu of reinstatement stands well settled. Reliance was placed on the judgment of the Supreme Court in *Tapas Kumar Paul v. Bharat Sanchar Nigam Limited*, reported in (2014) 15 SCC 313, wherein it has been held that compensation in place of reinstatement can be awarded only when justifiable circumstances exist. Such circumstances were illustratively stated to be where the industry has closed down, where the employee has already superannuated or is on the verge of retirement with no effective service period remaining, where the workman has become incapacitated and is unable to discharge duties, or where he has lost the confidence of the management in relation to the discharge of duties. It was submitted that none of these circumstances existed in the present matter.

6. It was then urged that neither before the Labour Court nor before the Industrial Court was any factual foundation laid by the respondent Bank to bring the case within the recognised exceptions warranting compensation instead of reinstatement. According to the petitioner, no finding of fact has been recorded by either Court that any of the aforesaid grounds existed. In such circumstances, the Labour Court was justified in directing



reinstatement, and the Industrial Court exceeded its jurisdiction in interfering with that part of the order.

7. Learned counsel next submitted that the Industrial Court set aside the relief of reinstatement with continuity of service merely on the basis that the petitioner had rendered about three years of service prior to termination and that litigation had remained pending for nearly eleven years, and therefore reinstatement was stated to be impracticable. According to him, such reasoning runs contrary to the law laid down by the Supreme Court in *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya*, reported in (2013) 10 SCC 324, wherein it has been held that in cases of wrongful termination, reinstatement with continuity of service is the normal rule. It was further submitted that for claiming back wages, the employee is only required to state before the adjudicating authority that he was not gainfully employed, which requirement stood satisfied in the present case. He contended that the orders passed by both the Labour Court and the Industrial Court are contrary to settled principles of law and deserve modification by directing reinstatement of the petitioner to his original post with continuity of service and full back wages. It was submitted that awarding mere compensation in lieu of reinstatement would amount to granting premium to the employer for resorting to unfair labour practice. Reliance was also placed upon the decision of the Supreme Court in *Constable Uma Shankaran v. Union of India*, Special Leave Petition (C) Nos. 6903-6904/2020 decided on 19th January 2026 wherein it was observed that if an employer, by an illegal act, deprives an employee from



performing duties and the termination is ultimately held unsustainable, the employee has a legitimate claim to be restored to all benefits which would have accrued but for such illegal exclusion from service. It was, therefore, prayed that the writ petition be allowed, the order of the Industrial Court be quashed and set aside, and the petitioner be reinstated with full consequential benefits.

8. Per contra, Ms. Thakkar, learned Advocate appearing for the respondent Bank, submitted that the Industrial Court has committed neither perversity nor any error apparent on the face of the record while exercising revisional jurisdiction. She contended that judicial pronouncements over a period of time have consistently recognised that reinstatement with back wages is not an automatic consequence, particularly in cases involving daily wagers or temporary employees after long lapse of time. According to her, several relevant considerations are required to be examined, namely, the length of service rendered, nature of employment, absence of proper pleadings regarding non-employment elsewhere, feasibility of reinstatement, and the substantial time gap between termination and final adjudication. She submitted that all such factors were duly considered by the Industrial Court while modifying the order of the Labour Court. It was further contended that, having regard to these circumstances, both Courts rightly declined unconditional reinstatement. In support of her submissions, apart from authorities referred to by the Industrial Court, reliance was also placed on the judgment of the Delhi High Court in *Pal Singh v. NTPC, reported in 96 (2002)*



DLT 877.

9. Learned counsel for the respondent submitted that even assuming such formula were to be applied, the compensation in the present case would not exceed the sum of Rs.2,00,000/-. It was further urged that the alternative relief granted by the Labour Court, namely reinstatement or compensation, squarely falls within the scope of Section 30(1)(b) of the MRTU & PULP Act. She also invited attention to the fact that the respondent Bank accepted the judgment of the Industrial Court and, by letter dated 8 February 2011, offered payment of compensation of Rs.2,00,000/- to the petitioner, which offer was declined. On these grounds, she prayed for dismissal of the writ petition.

REASONS AND ANALYSIS:

10. I have carefully considered the rival submissions, the material placed on record and the reasons recorded by the Labour Court as also by the Industrial Court.

11. I have heard the learned Advocates appearing for both sides. I have also carefully seen the papers, pleadings, earlier orders, and record produced before this Court. This dispute has travelled through many stages and over many years. It started when the petitioner was working as a peon in the old Bank. Thereafter, he approached the Industrial Court claiming permanency. That complaint came to be allowed on 17 July 2001. After that came the dispute regarding termination. Then the Labour Court passed its order. Thereafter, revision was filed and the Industrial Court passed the final order on 7 December 2010. Therefore, this Court



is dealing with a chain of events extending over long period.

12. The record shows that the petitioner joined service on 19 September 1995 as a peon in Shri Sadguru Jangli Maharaj Bank Limited, which was the earlier Bank. This fact is not disputed. It is also clear that while in service, the petitioner felt that he was being continued without permanent status, and therefore he approached the Industrial Court complaining unfair labour practice and asking for permanency. That complaint was allowed on 17 July 2001, and permanency was granted to him. This means the petitioner was not casual worker having no connection with the establishment. A competent Court had already recognised that his service deserved permanency. Therefore, when the Bank argues that he had no regular relation with service, such stand becomes difficult to accept. However, the permanency order alone does not solve every later dispute. It helps the petitioner on status, but still the Court must separately examine what relief should follow after termination and after passage of many years.

13. The next question for consideration is about what relief should be given. Even if termination or removal is found illegal, it does not mean in every case the worker must be taken back in service automatically. Labour Courts have never followed such fixed rule. Relief has to be decided after seeing facts of the case, conduct of both sides, type of job, atmosphere in establishment, and whether old service relation can start again. Therefore, it is necessary to see the accepted grounds where reinstatement may be refused and compensation or some fair relief may be granted. This becomes more important where unfair labour practice is not



proved, because in such matters the blame on employer is lesser and the Court gets wider scope to balance justice.

14. The petitioner has relied upon the fact that the Labour Court found breach of law and that findings regarding unfair labour practice were not disturbed by the higher forum. Normally, if a worker is removed illegally, the first relief often considered is reinstatement. The petitioner also points out that he filed affidavit saying he was not gainfully employed elsewhere. According to him, once such statement on oath was filed, the burden shifted on employer to prove otherwise. This argument also has some support. But this Court cannot decide the matter by looking at only one point. The full picture must be seen. The petitioner had worked for around three years before termination. After termination, litigation continued for very long period. By the time the Industrial Court decided the revision, more than eleven years had passed. Such delay changes the nature of remedy. In employment matters, after many years, staff changes, management changes, vacancies change, and practical conditions become different. Therefore, relief cannot be granted by ignoring passage of time.

15. The learned counsel for the petitioner relied upon judgments such as *Deepali Gundu Surwase* and *Tapash Kumar Paul*. There can be no quarrel with the principles stated in those decisions. Those judgments say that when termination is wrongful, reinstatement is generally the normal rule. They also say compensation instead of reinstatement should not be granted as routine. In *Tapash Kumar Paul*, it has been stated that compensation may be proper in



justified cases such as closure of establishment, retirement, incapacity, loss of confidence, or similar reasons. But these judgments do not create one blind formula for every case. They also require the Court to see facts of each matter. Therefore, even where reinstatement is a normal rule, the Court must still ask whether in the present facts the same relief remains practical.

16. In the present case, one important fact cannot be ignored. The original Bank was merged and amalgamated with Thane Janata Sahakari Bank Limited on 17 July 2007. Thus, the employer institution itself underwent change. The petitioner was working as peon in the earlier setup. After merger staffing pattern, and organisational needs may not remain the same. Therefore, the issue is not whether some office still exists. The real issue is whether the same employment relationship can reasonably be revived after many years in a changed institution. The Industrial Court considered this aspect and concluded that reinstatement with continuity was no longer suitable relief. This Court does not find such conclusion unreasonable. When service was short, dispute was old, and employer had changed by merger, the Court below was justified in considering compensation as more practical remedy.

17. The fact that permanency was granted on 17 July 2001 certainly strengthens the petitioner's case. It shows that his service claim was accepted. It also indicates that the employer had not dealt with his status properly earlier. Therefore, the petitioner cannot be treated as a mere casual worker. Yet even then, success on merits does not always mean one fixed relief. A worker may



establish that he was wronged, but remedy may still be shaped according to present circumstances. If after many years the old arrangement cannot be restored, then another remedy may be fair.

18. The petitioner argued that once Section 25(F) of the Industrial Disputes Act was violated, and unfair labour practice findings were not set aside, then refusal of reinstatement was contrary to law. Violation of Section 25(F) certainly makes termination bad in law. But there is difference between deciding legality of termination and deciding nature of final relief. The first asks whether employer acted lawfully. The second asks what should now be granted. These two questions are related, but not identical. Law does not say that in every case of illegal termination, the Court must always direct reinstatement even after long years and changed circumstances. In the present matter, the Industrial Court considered short service, long pending litigation, and changed condition of the Bank.

19. The respondent Bank submitted that the petitioner was a peon with short service, and therefore reinstatement with back wages was not justified. It also pointed out practical difficulties because of merger and long lapse of time. The petitioner had not served for decades. He had put in about three years actual service. The employment relation had broken many years earlier. In such circumstances, reinstatement may not always heal the injury in useful manner. Compensation, on the other hand, gives final monetary relief for the wrong suffered and closes litigation.



20. The principle in *Tapash Kumar Paul* that compensation instead of reinstatement must rest on justifiable reasons has been fully kept in mind. First, the petitioner's actual service period was not very long. Second, the dispute remained pending for long time. Third, the employer institution underwent merger. Fourth, the petitioner had already succeeded earlier in obtaining permanency, which means his grievance had been recognised in law. Therefore, the wrong done to him is not denied. Yet the suitable remedy in present circumstances need not be forced reinstatement after long gap.

21. The compensation of Rs.2,00,000/- also cannot be termed arbitrary in facts of the case. The Labour Court had earlier given alternative compensation of Rs.75,000/-. The Industrial Court enhanced the same to Rs.2,00,000/-. This itself shows that the revisional Court considered the petitioner's hardship and found larger amount necessary. It did not reject his grievance. It only changed the mode of relief. The amount may not satisfy the petitioner fully, but every lower amount cannot be called arbitrary. In writ jurisdiction, this Court does not sit as second appeal to recalculate compensation merely because another figure is possible. Unless the amount is shockingly low, irrational, or without reasoning, interference is not warranted. No such case is shown here.

22. The petitioner lastly argued that granting compensation instead of reinstatement would reward the employer for unfair labour practice. In some cases, such argument may have force, especially where employer acts with bad faith and reinstatement



remains fully possible even today. But present facts are different. Here the petitioner's rights were recognised. His termination was not treated as flawless. He has been awarded compensation. The Bank has not gone free without consequence. It has been directed to pay monetary amount. Therefore, it cannot be said that compensation is a prize for employer misconduct. Rather, in changed and old circumstances, compensation becomes method to remedy the wrong.

23. Considering all these aspects together, this Court finds that the matter is not fit for interference in writ jurisdiction only because the petitioner seeks reinstatement. Therefore, the order cannot be upset merely because another view is arguable.

24. In view of the foregoing discussion and reasons recorded hereinabove, the following order is passed:

- (i) The writ petition stands dismissed;
- (ii) The judgment and order dated 7 December 2010 passed by the Industrial Court in Revision Application (ULP) No. 54 of 2009 is upheld;
- (iii) The direction of the Industrial Court granting lump sum compensation of Rs.2,00,000/- to the petitioner in lieu of reinstatement is confirmed;
- (iv) The respondent Bank shall, if not already paid, pay the said amount of Rs.2,00,000/- to the petitioner within a period of eight weeks from the date of this order;



(v) In the event the aforesaid amount is not paid within the stipulated period, the same shall carry interest at the rate of 6% per annum from the date of this order till realization;

(vi) No order as to costs.

(AMIT BORKAR, J.)