



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 1418 OF 2015**

Venco Research and Breeding Farm Private  
Limited

.. Petitioner

**Versus**

Rashtriya Shramik Aghadi & Ors.

.. Respondents

- .....
- Mr. J.P. Cama, Senior Advocate a/w Varun Rajiv Joshi & Mr. Chetan Alai, Advocate for Petitioner.
  - Mrs. Smita Gaidhani a/w Dr. Rohini S. Pandit & Ms. Mrudula Gargale Advocates for Respondent No.1
  - Mr. Hamid Mulla, AGP for State

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**CORAM : MILIND N. JADHAV, J.**  
**Reserved on : NOVEMBER 24, 2025.**  
**Pronounced on : DECEMBER 01, 2025**

**JUDGMENT:**

**1.** Heard Mr Cama, learned Advocate for Petitioners; Mrs. Gaidhani learned Advocate for Respondent No.1 and Mr. Mulla, AGP for State.

**2.** Present Petition is filed challenging impugned Award dated 22.04.2014 passed by the Labour Court in Reference (IDA) No.94 of 2005. Impugned Award is appended at Exhibit “Y” page 284 of Petition.

**3.** Briefly stated, Petitioner is a Company duly incorporated under the Companies Act, 1956 and runs several poultry farms engaged in breeding, growing and hatching of eggs. Petitioner engaged 116 workmen in its farm at Village Sangavi, District Satara whose

contracts were governed under the Model Standing Order (for short “**Standing Order**”) framed under Industrial Disputes Act, 1947 (for short “**ID Act**”) to conduct aforementioned activities. Respondent No. 1 – Union espouses the cause of workmen in the present *lis*.

**3.1.** On and from 09.08.2004, 91 workmen of Petitioner – Company and another sister company being M/s Venkys (India) Pvt. Limited conducted and continued a hunger strike at Venkateshwar House, Pune keeping them absent from work for 63 days. On 28.08.2004, Petitioner – Company issued letters to these workmen seeking explanation for absence from work and called upon them to return to their duties, however no response was received.

**3.2.** In April 2005, workmen attempted to rejoin their duties, however they were not allowed to rejoin. Respondent No.1 – Union issued demand letter dated 20.04.2005 to Petitioner – Company seeking reinstatement of these workmen however no response was received. On 06.05.2005, Respondent No. 1 – Union approached Conciliation Officer seeking reinstatement of the workmen, however by letter dated 15.07.2005 Union was informed that reinstatement was not agreeable leading to failure report dated 29.07.2005 being submitted to Additional Labour Commissioner, Pune.

**3.3.** On 13.09.2005, Additional Labour Commissioner, Pune referred the dispute to Labour Court, Pune which was transferred to

Labour Court Satara bearing number Reference (IDA) No. 94 of 2005. On 22.04.2014, Labour Court, Satara allowed the Reference and directed Petitioner – Company to reinstate 12 workmen with continuity of service and 1 workman was to be reinstated with continuity of service with backwages. Being aggrieved with the Award of Labour Court, Satara present Petition is filed. By Order dated 21.08.2025, the Hon'ble Chief Justice directed this Court to hear and decided the Petition finally.

**4.** Mr. Cama, learned Senior Advocate appears alongwith Mr. Joshi, for Petitioners. He would submit that Award dated 22.04.2014 passed by Labour Court Satara is bad in law, that it is passed without appreciation of evidence on record and without due consideration of law, that it is therefore perverse and deserves to be set aside. He would submit that Petitioner – Company runs poultry farms and hatcheries at District Satara and Ahmednagar and employs 116 workmen to carry out various duties at its poultry farms. He would submit that some of the workmen are permanent while some are engaged casual labourers and they are currently posted at Petitioner – Company's Satara farm. He would submit that on 09.08.2004, about 91 workmen from Petitioner – Company and 48 workmen from another sister company called Venky's (India) Ltd, Bhigwan, Pune went on a flash strike without any prior intimation or notice to the Company / their respective employers. He would submit that reason for the strike was

for meeting of demands put forth by Respondent No.1 – Union but when reference was made and dispute was referred to Labour Court, in the evidence filed by the Union a palpably false ground was pleaded about a firing incident and a shot fired from the firearm of a security guard employed by the Company.

**4.1.** He would submit that Union in order to gain sympathy pleaded that at the behest of Management of the Company orders were given to its security guard to fire upon the Members of the Union and commit murder. On this ground Police complaint was also filed by the Union. He would submit that on 04.10.2003 during Dussera puja at Petitioner's farm at Vadgaon, Taluka Khandala, District Satara while cleaning the licensed firearm accidentally fired the gun shot which hit the roof of the security cabin and its sharpnel backfired and pierced the workers who were entering from the gate leading to injuries to 10 workmen. He would submit that injured workmen were administered medical treatment and discharged. He would submit that a criminal case of alleged attempt to murder was filed, tried by the Court by returning affirmative findings the security guard and Company's Manager were exonerated / acquitted.

**4.2.** He would submit that the place and farm where this incident occurred is admittedly at a distance of 7 kilometers from Village Vadgaon. He would submit that the incident occurred 10

months prior to the date of file. He would submit that Respondent No.1 – Union spread false rumors that Petitioner – Company terminated 25 workmen and transferred other workmen. He would rather submit that Petitioner – Company did not terminate any workman and rumors spread by Respondent No. 1 – Union were mischievous with an intention to cause prejudice and mislead judicial authorities. He would submit that Company released a press statement on 14.08.2004 that they had never terminated any workmen, which statement stands on record.

**4.3.** He would submit that all 48 workmen of the sister company i.e. Venkys (India) Ltd Bhigwan, Pune returned back to duty, forthwith however workmen of Petitioner – Company's farm at Village Sangvi continued the strike. He would submit that various letters were addressed to workmen of the farm at Village Vadgaon calling upon them to return back to duty however no response was received. He would submit that workmen abandoned their duties despite Petitioner - Company issuing show cause notice to them to return to their duties. He would submit that despite these workmen remaining absent, Petitioner – Company did not terminate their services, in fact no action was taken pursuant to issuance of show cause notices issued to them. Hence there was no termination.

**4.4.** He would submit that in April 2005, Respondent no. 1 -

Union raised a Charter of Demands seeking reinstatement of the allegedly terminated workmen. In response thereto Petitioner – Company addressed letter dated 23.06.2005 stating that these workmen remained absent since 09.08.2004 (date of strike) and Petitioner had addressed letters to them by RPAD which were received by them calling upon these workmen to return to their work and Petitioner - Company expressly denied that their services were terminated by the Company.

**4.5.** He would submit that dispute that between Petitioner – Company and Respondent No. 1 – Union was submitted to Conciliation and discussions took place, however due to resolute stand of both parties Conciliation failed. He would submit that Conciliation Officer filed failure report dated 29.07.2005 wherein he erroneously observed that Petitioner – Corporation dismissed / terminated these workmen as they remained absent from work without leave or reason. He would submit that this erroneous finding proved fatal to Petitioner – Company's case which influenced the Labour Court, Satara to pass the impugned Award.

**4.6.** He would submit that Respondent No. 1 - Union filed Statement of Claim and Petitioner – Company filed Written Statement in the proceedings before Labour Court. He would submit that these workmen went on hunger strike on 09.08.2024 and Petitioner -

Company issued show cause notices to them to rejoin back to work but they failed to do so, hence leading to abandonment of work by them. He would vehemently submit that despite these workmen nor Respondent No. 1 – Union not replying to the show causes notice, Petitioner – Company did not terminate their services instead requested them to repeatedly return back to work.

**4.7.** He would submit that two workmen namely Mr. Yashwant Anandrao Bhosle and Mr. Sanotsh Kisan Bhargude filed Affidavits of Evidence on behalf of all workmen, they were duly cross examined by Petitioner – Company. He would point out that in their cross examination, they deposed as under :- (i) In cross examination Mr. Yashwant Anandrao Bhosle admitted that he cannot produce any proof to show that he filed his evidence on behalf of other workmen, (ii) that the workmen were not terminated neither was the subject of protest relating to termination; (iii) that the workmen did not issue any demand to Petitioner – Company seeking their reinstatement and admitted that he himself willfully remained absent from duty. He would submit that Petitioner – Company led evidence of Mr. Chandrakant Ganapatrao Shahane, Dilip V. Kolte and Dr. Game who were duly cross-examined by Respondent No. 1 – Union wherein they expressly denied that Petitioner – Company terminated the services of the workmen and stated that the workmen may return to work if they so desire.

**4.8.** He would submit that Petitioner – Company filed application before the Labour Court to amend its written statement however, Labour Court dismissed the application and Petitioner – Company filed Writ Petition before this Court challenging that order. He would submit that this Court (Coram: K.K. Tated, J) during court hearing referred the parties to mediation. He would submit that during mediation, Petitioner – Company agreed and proposed to reinstate these workmen, provide free accommodation to them, pay their 15 days wages on the last drawn wages for each completed year in service and disburse gratuity and Provident Fund to them, but Respondent No. 1 – Union declined the proposal and mediation failed. He would submit that this Court allowed the Writ Petition and Petitioner - Company amended its Written Statement.

**4.9.** He would submit that Petitioner - Company repeatedly offered these workmen several opportunities to rejoin work, firstly before the Conciliation Officer, secondly before Labour Court, thirdly during mediation and fourthly even at stage of cross examination, to return back to work, however they remained adamant and hence after 6 years of keeping their posts vacant, Petitioner – Company was left with no other option but to fill their vacant posts at Vadgaon, Satara as their absence had subsequently affected the Company's business over the years.



**4.10.** He would submit that the Labour Court however based its findings entirely on the Conciliation Officer's erroneous observation that Petitioner – Company had terminated these workmen's services after they failed to return to work which is factually incorrect. He would however submit that there is sufficient material on record to show that Petitioner – Company was always ready and willing to accept these workmen back in work but the same was not considered by the Labour Court. He would submit that the Labour Court also returned an erroneous finding that these workmen were recalled but not allowed to rejoin. He would submit that Respondent No.1 – Union placed no evidence on record to support this erroneous finding and in fact cross examination of Respondent No.1 – Union's witnesses is contrary to this finding. Hence he would persuade the Court to allow the Petition.

**5.** *PER CONTRA*, Ms. Gaidhani, learned Advocate appearing on behalf of Respondent No. 1 – Union has vehemently opposed the Writ Petition and would submit that the impugned Award dated 22.04.2014 is tenable in law, that it suffers from no infirmities, that it is passed with complete application of mind while considering the evidence on record and it deserved to be upheld. She would submit that Respondent No. 1 - Union represented and espoused the cause of 44 workmen of Petitioner - Company. She would submit that the workmen whose names are mentioned at Annexure 'A' to the Award

dated 22.04.2014 were working with Petitioner - Company for more than 8 years. She would submit that on 22.02.2003, Respondent No. 1 – Union raised a demand, however Petitioner – Company did not respond. She would submit that on 25.11.2003, Respondent – Union approached Additional Labour Commissioner for mediation however Petitioner – Company did not even attend the mediation.

**5.1.** She would submit that a security guard employed by the Petitioner – Company during a protest opened fire from his licensed firearm and injured 13 workmen. She would submit that on 09.08.2004, post the firing incident, these workmen staged a hunger strike and it was so brought out in the evidence of Mr. Yashwant Anandrao Bhosle and Mr. Sanotsh Kisan Bhargude being Respondent No. 1 – Union’s witnesses. She would submit that on 10.09.2004, the workmen called off the hunger strike and reported to work on 29.09.2004 and 30.09.2004, however they were not allowed to return back to work and this was also brought out in the evidence of Respondent No. 1 – Union’s witnesses.

**5.2.** She would submit that Respondent No. 1 – Union through its Chairman submitted numerous written complaints to the Additional Labour Commissioner, Pune however no response was received. She would submit that Respondent No.1 – Union then issued letter dated 20.04.2005 requesting Petitioner – Company to allow these 44

workmen to join back in service, however no response was received. Hence the Union approached the Conciliation Officer under ID Act vide referral letter 06.05.2005. She would submit that on 15.07.2005 Petitioner – Company stated that these workmen remained absent without permission hence, question of their reinstatement with continuity in service and full back wages together with all consequential benefits did not arise. She would submit that after due discussion with both the parties, no settlement could be arrived at and Conciliation Officer submitted a failure report dated 29.07.2005 to the Additional Labour Commissioner, Pune. She would submit that on 13.09.2005, the Additional Labour Commissioner, Pune referred the dispute to Labour Court, Pune. She would submit that in the Demand Letter dated 20.04.2005 issued to Petitioner - Company it was stated that services of these workmen were orally terminated by Petitioner - Company in September, 2004. She would submit that oral termination amounts to retrenchment under Section 2 (oo) of the ID Act hence such termination is in violation of Section 25F of the ID Act as no notice was issued nor any retrenchment compensation was paid to these workmen. She would argue that no Seniority List as per Rule 81 of the Industrial Disputes (Bombay) Rules, 1957 was displayed prior to termination and hence, their termination was illegal, arbitrary, and void ab-initio. Further, she would submit that admittedly no chargesheet was issued nor inquiry conducted against these workmen

before termination of their services. She would submit that all efforts of these workmen to join the company proved futile as they were not allowed to enter the premises of Petitioner – Company.

**5.3.** She would submit that Respondent No. 1 – Union led evidence of two witnesses viz. Shri. Yashwant Anandrao Bhosale and Santosh Kisan Bhargude who were thoroughly cross examined. She would submit that Shri. Yashwant Anandrao Bhosale in his cross examination stated that these workmen did not receive Show Cause Notices except 3 ladies (workers) had who received them. Mr. Santosh Kisan Bhargude in his evidence specifically denied the suggestion that he resigned from Respondent No.1 - Union and in fact denied his signature on the resignation letter as well as other documents put to him in cross examination. She would submit that Mr. Bhargude further stated in his cross examination that he was not allowed to join work on 09.08.2004.

**5.4.** She would submit that Petitioner - Company's Assistant General Manager (Personnel) Shri. Chandrakant Ganpatrao Shahane filed his Affidavit of evidence and was duly cross examined by the Union. She would submit that in his cross examination he admitted that 13 workmen were injured in the firing by their security guard and that the strike was called off on 10.09.2004. She would submit that he also deposed that most of the Show Cause Notices were returned back

and further admitted that except the Show Cause Notices, Petitioner – Company did not issue any other letter to these workmen calling upon them to return to duty. She would submit that Petitioner - Company's second witness Dr Dilip Kolte, admitted in his cross examination that he was not aware if these workmen had returned back to duty on 29.09.2004 and 30.09.2004 and he stated that Show Cause Notices were issued to all 44 workmen. She would submit that both these witnesses deposed that they were not aware as to whether these workmen had conveyed their readiness to join back during the pendency of the proceedings. She would submit that similar evidence was given by Shri Game who was the third witness of Petitioner - Company. She would submit that Shri Game stated that he was not aware whether Petitioner - Company had any proof about some of these workmen being casual workmen. She would submit that only after due consideration all issues, learned Labour Court vide Award dated 22.04.2014 held that Respondent No. 1 – Union had proved that Petitioner - Company violated Section 25F of the ID Act and had terminated the services of these workmen illegally and that the said workmen did not abandon their services. She would submit that the Reference was partially allowed in respect of 12 workmen only and it was held that the said workmen were eligible for reinstatement with continuity in service and company should provide reinstatement and continuity of service to those 12 workmen and as regards one other

workman named Santosh Kisan Bhargude, the Labour Court held that that he was eligible for reinstatement, continuity of service and payment of full back wages.

**5.5.** She would submit that Award dated 22.04.2014 is challenged by Petitioner - Company in present Petition and despite of passage of more than 11 years, present Petition stands pending and neither is there any stay on operation of Award dated 22.04.2014 and the Award is not implemented till date. She would submit that grave prejudice and irreparable loss is caused to workmen since they are out of work since 2004. She would submit that two workmen out of these 12 have expired in the interregnum and five workmen have already attained the age of superannuation.

**5.6.** She would submit that these 12 workmen who are granted relief by the Learned Labour Court had written various letters to Petitioner Company to allow them to resume work, however despite receipt of letters no action was taken by Petitioner to comply with the Award of the Labour Court. She would submit that the offer now been made after 21 years agreeing reinstatement is nothing but an eye wash only with a view to deprive the workmen from getting their lawful dues. She would submit that except bare words, Petitioner - Company did not produce any cogent material to show that new workmen were recruited in place of these workmen involved in the dispute and as per

information of the Union their posts are still vacant since most of the workmen freshly engaged have been employed on casual/contract basis. She would submit that the Labour Court rightly held that except alleged Show Cause Notice there was no other action taken by Petitioner - Company calling upon these workmen to return back to duty and that except for 3 ladies (workmen) Show Cause Notices were not even served upon the other workmen, hence there was no question of them responding to the Show Cause Notices.

**5.7.** She would submit that a bare perusal of the Show cause Notices would show that it stated that in case if the concerned workman did not return back to his duty, then disciplinary action would be invoked against him leading to enquiry, but admittedly there was no such action /inquiry /conduct of disciplinary proceedings undertaken in the present case neither was compensation paid to any of these workmen over the years. Hence she would submit that action of the company amounted to retrenchment and present Petition deserved to be dismissed and the workmen deserved to be compensated adequately for the immense loss caused to them deliberately and intentionally by the Petitioner - Company.

**6.** I have heard Mr. Cama, Senior Advocate for the Petitioner Company and Ms. Gaidhani learned Advocate for the Respondent No.1 - Union at the Bar representing the Company and the Union and

perused the record of the case with their able assistance. Submissions made by both the learned Advocates have received due consideration of the Court.

**7.** At the outset, moot question to be answered in the present Petition are whether workmen who were employed by Petitioner – Company were terminated in violation of ID Act and whether the impugned award deserves to be upheld? Admittedly, Petitioner – Company is running several poultry farms engaged in breeding livestock birds, poultry, growing and hatching of eggs etc. On 09.08.2004, workmen of Petitioner – Company employed in several poultry farms in Pune and Satara staged hunger strike outside headquarters of Petitioner – Company and remained absent from work thereafter. However 91 workmen participated in the hunger strike were from the poultry farm at Village Sangvi District Satara. Most of the workmen who returned back were allowed to join duties. It is Respondent No. 1 – Union’s case that since the workmen remained absent from work, they were orally terminated and refused entry to Petitioner – Company’s farm when they returned back and they could not carry out their duties. However it is Petitioner – Company’s case that the 12 workmen herein were never terminated and that over the course of litigation and even before the Conciliation Officer, Petitioner – Company repeatedly requested the workmen to join work and perform their duties.



**8.** It is seen that Petitioner – Company and Respondent Union attempted to amicably resolve their disputes before Conciliation Officer as well as a mediator appointed by this Court however both attempts at amicable settlement failed. It is seen that Conciliation Officer submitted his Failed Report dated 29.07.2005 which is at Exhibit ‘D’ page No. 47 of Petition. It is seen that, in the Conciliation Report the Conciliation Officer records a finding that workmen left their duty without permission or reason for which they were served with letters issued by Petitioner – Company sent by RPAD, however the workmen did not return back to work neither did they give any reason for their absence, hence Petitioner – Company dismissed them while at the same time denying violation of Section 25F of ID Act. Petitioner – Company has vehemently argue that this finding was erroneous.

**9.** Record clearly shows that these 12 workmen are not been terminated from service by the Company. Since they remained absent due to strike they were issued show-cause notice. After receiving the show-cause notices, they did not report back to duty. The strike took place some time in August – 2004. According to workmen they reported back on duty to rejoin their services in April – 2005. Petitioner – Company naturally in the meantime could not afford to keep their positions vacant and recruited additional labour / workmen so that the business of the Company did not get affected.

**10.** Though Mr. Cama has argued that because of the strike call given by the workmen, the production Industry of Petitioner – Company severely got affected thereby leading to financial losses. There is another issue which deserves attention that is borne out from the record itself. The workmen were employed in the poultry farm situated in village – Sangvi, District – Satara. They went on a strike in August – 2004. The strike was undertaken in front of Petitioner – Company’s Head Office in Pune. It is an admitted position that the strike pertained to negotiation of demands of the Union with the Company but when some of the workmen working in the poultry farm at village - Sangvi, District – Satara did not rejoin and attempted to rejoin services almost after six months, the Company did not allow to let them in. At first instance it appears that the Company was at fault but that does not appear to be the case. All along consistently after the Reference was made and even before me, it is the case of the workmen that the strike was called due to a firing incident which had occurred in the poultry farm where these workmen were working. This reason and cause of action given by workmen in the Reference proceedings while leading evidence is on the face of record false. The Union only desired to evoke sympathy by referring to the firing incident. It is seen from the record that in the poultry farm at village – Sangvi where these workmen were employed, no such firing incident whatsoever had taken place and this is the admitted position. The alleged firing

incident pertained to an incident which happened ten months ago (October 2003) before the date of strike on the day of Dusshera in the year 2003. It was infact not a firing incident at all. The security guard of the Petitioner – Company posted at the Company’s poultry farm at village - Vadgaon, District – Satara was cleaning his weapon for the purpose of Dusshera puja and accidentally a bullet got fired which pierced the metal roof of the security cabin of the watchman. The accidental firing led to shrapnel flying out in the air and workmen of that poultry farm who at that time were entering through the farm gate, got injured with the shrapnel piercing them. The Company provided immediate medical attention to all the injured workmen but unfortunately a First Information Report was lodged by the Union alleging that on instructions of Assistant General Manager of the poultry farm situated in village – Vadgaon, District – Satara, the security personnel / guards were directed to shoot the workmen and commit murder i.e. fire upon the workmen working in that farm. Investigation was conducted in the criminal case lodged which went the entire distance of trial.

**11.** All above facts are clearly documented in the detailed order of exoneration and acquittal passed by the Criminal Court while discharging the Company’s personnel from any act of attempt to murder. The Union gave a strike ten months after this incident and pursuant to the strike after almost six months when these 12 workmen

decided to rejoin the Company they were not permitted and hence Union, they raised a dispute. Record shows that even before the Conciliation Officer, the workmen were directed to report to duty but they refused until the Union's demands were met.

**12.** What transpires thereafter is crucial. In the pleadings filed before the Labour Court, the Union has pleaded that the cause of action of the strike which had taken place in August – 2004 was on account of the firing incident on the workmen which was on the face of record, a false assertion and ground for the Union to go on strike. It is seen that the alleged firing incident which is narrated hereinabove and is the admitted position occurred at Village Vadgaon during Dussehra puja and had no nexus whatsoever with the strike call given by the Union 10 months after the alleged incident thereby paralysing the operations of the Petitioner – Company. Not only it did not have any nexus but by virtue of the strike call, the operations of the Company had come at a complete stand-still and the Company suffered severe financial loss. The Company production line, *inter alia*, pertaining to its birds and livestock could not suffered in the meanwhile.

**13.** The Company addressed show-cause notices which have been admitted by the witnesses of the Union in evidence as some of the workmen having received them. Admittedly, thereafter neither any enquiry took place nor termination occurred. For the past more than

20 years, the position has prevailed as it is. Petitioner – Company employs hundreds of workmen, Petitioner – Company's motive to terminate these 12 workmen can be ascertained on the basis of material on record. Neither there is any proof placed on record or material shown to the Court by the Union that the workmen were terminated from service. Once that is the position, merely because the Petitioner – Company has referred to and used the reinstatement in its amended written statement cannot bind the Company to having held that the workmen were terminated by the Company.

**14.** It is clearly seen that the Union filed a false complaint against the Company pursuant to the alleged firing incident which had no nexus to the strike call given ten months later but after a period of one year when pleadings and evidence was led before the Labour Court in Reference proceedings the Union painted a picture about the strike call having been given due to the alleged firing incident which was a false case made out by the Union. When such false cases are foisted on the Company by the Union, the Union should not and cannot expect any assistance from the Court of law. The Union has miserably failed to show that services of these 12 workmen were terminated by the Company as alleged by them. There is not an iota of evidence on record to suggest that the workmen were terminated by the Company.

**15.** Resultantly, what has happened is that out of 13 workmen before me five of the workmen have in the interregnum surpassed the age of superannuation. Out of the remaining six, it is seen that it is merely the oral evidence of the office bearer of the Union which states that no workmen received any show-cause notice from the Company but he admitted that three out of them did receive the show-cause notices. However, the Company in its evidence and right from inception has maintained a consistent stand that after issuance of the show-cause notices they did not take any further steps to conduct enquiry or terminate the services of the workmen to whom the show cause notices were issued.

**16.** Record shows that show-cause notices were issued to 44 workmen out of the 91 workmen who went on strike. Rest all workmen returned back to work. Reference to Labour Court was made only in respect of 12 workmen and learned Labour Court held that they were eligible for reinstatement with continuity in service and the Company should provide reinstatement to these 12 workmen. In so far the 13<sup>th</sup> workman is concerned, namely Mr. Santosh Kisan Bhargude, he deposed on behalf of the workmen / Union and in is the office bearer of the Union, in his case the Labour Court held that he was eligible for the reinstatement, continuity of service and payment of full backwages.

**17.** In the above facts and circumstances merely because Mr. Santosh Bhargude deposed on behalf of the Union he cannot be given a better or preferential deal than the other 12 workmen without having worked and hence he cannot be entitled to full backwages. That finding of the learned Labour Court holding Mr. Santosh Bhargude eligible and entitled for payment of full backwages in the aforesaid facts deserves to be interfered with and set aside. There is absolutely no foundation whatsoever to single out the case of Mr. Santosh Bhargude for such preferential treatment of awarding him payment of full backwages to him neither there is any foundational evidence which can lead the Court to award such a relief to only one of the workmen. Therefore the said direction and declaration of the Labour Court holding that Mr. Santosh Bhargude would be entitled to payment of full backwages is quashed and set aside. Out of the remaining 12 workmen, 5 workmen have crossed superannuation and two have demised in the interregnum. That leaves only six workmen i.e. 5 + 1 (Santosh Bhargude) who have not attained age of superannuation as yet.

**18.** Though Petitioner – Company has in the alternate argued that they would be ready and willing if the Court feels so to allow these workmen to rejoin at the Company's Ahmednagar farm but even those talks failed and the Union decided to argue the present Petition on merits. The issue of reinstatement of remaining workmen has been

outrightly rejected by the Union as an eye-wash.

**19.** Mr. Cama after arguing the entire matter informed the Court that if at all the six workmen are to be reinstated, Petitioner – Company is ready and willing to reinstate them and provide them accommodation only at its Ahmednagar poultry farm where vacancies exist and not at their original place of work at village Vadgaon but he has categorical instructions to submit that no vacancies exist and also to oppose the relief of continuity in service offered to all workmen and the backwages offered to Mr. Santosh Bhargude. However both the parties have held to their stand and all attempts at settlement even before me before failed even before me deciding the matter failed on merits. In view of the serious facts and circumstances of the present case where the Union approached the Labour Court with unclean hands by attempting to invoke sympathy of the Court by relying upon the firing incident which had no nexus whatsoever with the issue at hand and after considering the submissions made by Mr. Cama and Ms. Gaidhani and in view of aforementioned observations and findings, I am of the clear opinion that reinstatement of the 12 workmen directed by virtue of the impugned order deserves to be set aside.

**20.** Record clearly indicates that originally 91 workmen who worked at the poultry farm at village – Sangvi, District – Satara had



gone on a flash strike but almost all of them returned to work and it is only some of the workmen who for the next six months did not return to work.

**21.** In the facts of the present case in my opinion only because the Petitioner – Company did not take any steps pursuant to issuance of show-cause notice for effecting termination of the workmen, the said workmen should be entitled to monetary relief as the Company did not conduct any enquiry neither it terminated their services. However I am not inclined and convinced to accept the reason given by the learned Labour Court in arriving at that finding that these 13 workmen will be entitled to reinstatement and continuity of service. Labour Court has failed to analyse the real cause of action while passing the Award which led to the strike and ultimately after the strike to the stalemate of reinstatement of these 13 workmen. The timeline from the date of firing incident until the Reference was filed is almost two years. The cause of action of the firing incident in the Reference was merely pleaded to invoke sympathy of Court in favour of the workmen and nothing else.

**22.** When the other workmen returned to work out of the 91 workmen who had gone on the flash strike the poultry farm at village – Sangvi there was no reason for these 13 workmen not to return.

**23.** In view of the above observations and findings, the directions

contained in the impugned Reference Award passed by the learned Labour Court directing reinstatement of the 13 workmen alongwith award of full backwages to Santosh Bhargude, is not sustainable in law at all and the same is required to be quashed and set aside. However, since the Company did not take any further steps for effecting termination of the workmen after following the due process of law, the Company is also at fault. Hence I am inclined to direct the Company to pay monetary compensation of Rs.7,50,000/- in lumpsum to each of the 13 workmen. In so far as the 2 workmen who have expired, the Company shall pay the compensation to their legal heirs by depositing the said compensation in the Labour Court of Satara and Registrar of Labour Court, Satara is directed to disburse the said compensation to the legal heirs of the deceased workmen after ascertaining all details of the legal heirs.

**24.** In so far as the five workmen who have passed the superannuation age during the interregnum, the compensation of Rs.7,50,000/- as directed to be paid to them shall be deposited by the Company with the Labour Court, Satara and the Registrar, Labour Court shall be responsible for disbursing the payment to them immediately after the deposit is made.

**25.** The remaining six workmen including Santosh Bhargude shall also be entitled to compensation of Rs.7,50,000/- each which

shall be deposited by the Petitioner – Company with the Labour Court, Satara and the Registrar of the said Court shall verify and the pay the compensation to these workmen. The deposit of the compensation as directed above shall be made by the Petitioner – Company within a period of four weeks from today for all 13 workmen and disbursement of the compensation shall be made thereafter by the Registrar, Labour Court forthwith after verifying all details of the workmen without any delay and in any event within a period of 8 weeks from the date of deposit of compensation.

**26.** In view of the above directions and to the extent of directions given hereinabove, the impugned Award dated 22.04.2014 passed by the Labour Court in Reference (IDA) No.94 of 2005 stands interfered with and modified to the above extent accordingly.

**27.** Writ Petition partly succeeds and is allowed in the above terms. Liberty to apply.

**28.** Writ Petition is disposed.

**[ MILIND N. JADHAV, J. ]**

Ajay

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TRAMBAK  
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