

## **Bombay High Court directs compensation as appropriate relief for illegal termination; held, reinstatement cannot be granted after retirement age**

In the recent case of *M/s J Fibre Corporation vs. Maruti Harishchandra Amrute and Ors.*<sup>1</sup>, a single judge bench of the Bombay High Court (“**Bombay HC**”) reaffirmed the settled legal position that reinstatement would not be an appropriate remedy where a workman has already attained the age of retirement, even if the termination is held to be illegal. It further held that monetary compensation would be the appropriate relief.

### **Brief facts**

On May 17, 2018, M/s J Fibre Corporation (“**Employer**”) terminated the services of Mr. Maruti Harishchandra Amrute (“**Employee**”), who was predominantly involved in technical work, citing cost-cutting measures. The Employer also stated that, out of the 3 (three) employees performing similar functions, the Employee was the most junior and was therefore considered for termination. A termination letter and a cheque for 1 (one) months’ notice pay were also issued on the same day. While the Employee initially declined to accept the termination letter, he acknowledged the letter 2 (two) days later but returned the cheque.

Subsequently, the Employee raised a demand for reinstatement and initiated conciliation proceedings. Upon failure of conciliation, the matter was referred to the 3rd Labour Court, Thane (“**Labour Court**”), which, by an award dated November 2, 2022, directed reinstatement with full back wages and continuity of service (“**Award**”).

Aggrieved by this, the Employer filed a writ petition before the Bombay HC, contending that the direction for reinstatement was not sustainable as the Employee had already reached the age of retirement by the time of Award, and that termination had been carried out in accordance with due process.

### **Issue**

The Bombay HC was presented with 2 (two) keys issues:

1. whether the Labour Court was justified in directing reinstatement, given that the Employee had reached the age of retirement by the time Award was passed?
2. whether the termination was legally valid, and if not, what would be the appropriate relief?

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<sup>1</sup> W.P. No. 10454/2024 (Decided on March 5, 2025)

## Observations and analysis

The Bombay HC, while examining the facts and deciding upon the matter, laid down the following observations:

1. The Employee's permanent account number (PAN) card reflected his date of birth as June 24, 1961. Based on this, the Bombay HC noted that the Employee had attained 60 (sixty) years of age by June 24, 2021. As the Labour Court's Award was passed in November 2022 i.e. after the Employee had reached the retirement age, the Bombay HC held that reinstatement was not a legally tenable remedy in such circumstances.
2. On the legality of termination, the Bombay HC found that the Employer had failed to comply with the conditions under Section 25F of the Industrial Disputes Act, 1957 ("**ID Act**"). Specifically: (a) retrenchment compensation was not paid at the time of termination but was deposited into the Employee's bank account nearly 6 (six) months later; and (b) the Employer failed to produce any seniority list to substantiate its claim that the Employee was the most junior among the 3 (three) employees in same category/group.

In light of the above, while upholding the Labour Court's finding that the termination was procedurally defective, the Bombay HC modified the relief granted and directed payment of monetary compensation in lieu of reinstatement. The amount was quantified at INR 3,58,073 (Indian Rupees three lakh fifty-eight thousand and seventy-three).

## Conclusion

Very often, employers tend to contemplate the need to adhere to procedural compliance requirements under the ID Act when it concerns workforce redundancy and restructuring exercises. The Bombay HC's ruling provides important direction for employers in this regard. It reinforces that compliance with procedural safeguards under the ID Act, such as timely payment of retrenchment compensation and a demonstrable, objective basis for selecting employees for termination (i.e. retrenchment<sup>2</sup> of workmen employees under the ID Act) is essential, regardless of the business rationale or the size of workforce reduction contemplated. A failure to meet these requirements can result in the termination being declared invalid.

Notably, while the Bombay HC found the termination procedurally flawed, it declined to order reinstatement since the employee had already reached retirement age. Instead, it awarded lump-sum compensation.

The judgment reiterates a balanced approach, emphasising the need to adhere to legal process while also recognising practical limitations on reinstatement in long-pending disputes involving retired employees. For employers, it is a timely reminder that process is key, and that lapses, however minor they may seem, can have significant legal and financial consequences.

## Other instances where compensation was granted in lieu of reinstatement

While reinstatement with back wages has traditionally been the default remedy in cases of unlawful termination of workmen employees, Indian courts have repeatedly affirmed that it is not an *automatic outcome*. Depending on the facts and circumstances of each case, including the nature of employment, alternative relief—such as monetary compensation in lieu of reinstatement may be more appropriate. For instance:

In *Deputy Executive Engineer vs. Kuberbhai Kanjibhai*<sup>2</sup>, the Hon'ble Supreme Court of India ("**Supreme Court**") while declaring the termination invalid owing to procedural lapses, affirmed that reinstatement was not a suitable remedy where the employee was a daily wager with no right to regularisation. Interestingly, the Supreme Court explained that reinstating such a worker would serve no practical purpose, as the employer could simply retrench the employee again by following due process. In such cases, awarding monetary compensation was considered a more effective and equitable remedy.

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<sup>2</sup> Civil Appeal No. 5810/2009 (Decided on January 7, 2019)

In *Divisional Controller, KSRTC vs. M.G. Vittal Rao*<sup>3</sup>, the Supreme Court held that where an employer has genuinely lost confidence in the employee, especially in roles involving trust and integrity, reinstatement is not appropriate, even if the termination is held to be invalid. The Supreme Court directed payment of compensation in such circumstances, recognising that continuation of employment relationship was no longer viable.

## Employment Practice

JSA has a team of experienced employment law specialists who work with clients from a wide range of sectors, to tackle local and cross-border, contentious and non-contentious employment law issues. Our key areas of advice include (a) advising on boardroom disputes including issues with directors, both executive and non-executive; (b) providing support for business restructuring and turnaround transactions, addressing employment and labour aspects of a deal, to minimise associated risks and ensure legal compliance; (c) providing transaction support with reference to employment law aspects of all corporate finance transactions, including the transfer of undertakings, transfer of accumulated employee benefits of outgoing employees to a new employer, redundancies, and dismissals; (d) advising on compliance and investigations, including creating compliance programs and policy, compliance evaluation assessment, procedure development and providing support for conducting internal investigations into alleged wrongful conduct; (e) designing, documenting, reviewing, and operating all types of employee benefit plans and arrangements, including incentive, bonus and severance programs; and (f) advising on international employment issues, including immigration, residency, social security benefits, taxation issues, Indian laws applicable to spouses and children of expatriates, and other legal requirements that arise when sending employees to India and recruiting from India, including body shopping situations.

JSA also has significant experience in assisting employers to ensure that they provide focused and proactive counselling to comply with the obligations placed on employees under the prevention of sexual harassment regime in India. We advise and assist clients in cases involving sexual harassment at the workplace, intra-office consensual relationships, including drafting of prevention of sexual harassment (POSH) policies, participating in POSH proceedings, conducting training for employees as well as Internal Complaints Committee members, and acting as external members of POSH Committees.

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<sup>3</sup> Civil Appeal No. 9933/2011 (Decided on November 18, 2011)



18 Practices and  
41 Ranked Lawyers



7 Ranked Practices,  
21 Ranked Lawyers



14 Practices and  
12 Ranked Lawyers



12 Practices and 50 Ranked  
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