

SHRI TALUKDAR SINGH

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v.

TATA ENGINEERING & LOCOMOTIVE CO. LTD.

(Civil Appeal No. 5701 of 2015)

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JULY 24, 2015

**[T. S. THAKUR, V. GOPALA GOWDA AND R.  
BANUMATHI, JJ.]**

*Labour laws – Retrenchment compensation – Enhancement – Commission of misconduct by the appellant – Termination of services – Award of retrenchment compensation of Rs. 6049/- to appellant by Labour Court holding punishment disproportionate – High Court though upheld the punishment of dismissal, but enhanced compensation to Rs. 1,00,000/- – On appeal, held: Concurrent findings of fact by both Labour Court and High Court that misconduct of the appellant was proved on the basis of the evidence and that the punishment of dismissal was shockingly disproportionate – When Labour Court passed the award, appellant was about 59 years and two years later he attained the age of superannuation – Considering the number of years the appellant has worked with the respondent and the facts and circumstances of the case, compensation enhanced to Rs.5,00,000/- – Judgment of High Court accordingly modified.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5701 of 2015

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From the Judgment and Order dated 19.06.2014 of the High Court of Judicature at Bombay in Writ Petition No. 3646 of 2001

S. Ravi Shankar for the Appellant.

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A C.U. Singh, R. N. Karanjawala, Debmalya Banerjee, Jasmeet Singh, A.S. Aman, Manik Karanjawala (for Karanjawala & Co.) for the respondent.

The Judgment of the Court was delivered by

B **R. BANUMATHI, J. 1.** Leave granted.

C 2. This appeal arises out of the order passed by the High Court of Bombay in Writ Petition No.3646 of 2001 dated 19.06.2014, in and by which, the High Court enhanced the retrenchment compensation of Rs.6,049/- awarded by the Labour Court to Rs. 1,00,000/- without any interest.

D 3. A charge-sheet dated 07.05.1988 was issued to the appellant for committing the misconduct of slapping his colleague, Mr. Kunjumon who was working with the respondent-company. An enquiry was conducted against the appellant and the services of the appellant were terminated on 07.05.1990. The appellant challenged his termination and a reference was made to the Labour Court, Pune. By the award dated E 28.02.2000, Labour Court held that the enquiry against the appellant was fair and proper and the misconduct was proved. However, the Labour Court held that the punishment of dismissal from service was shockingly disproportionate and awarded retrenchment compensation of Rs.6,049/- to the F appellant. Being aggrieved, the appellant filed writ petition contending that the punishment of dismissal was harsh and that the retrenchment compensation of Rs. 6,049/- awarded was no compensation at all. By the impugned judgment, the G High Court while upholding the punishment of dismissal, enhanced the compensation to Rs.1,00,000/- minus Rs.6,049/- which was already paid to the appellant. Still aggrieved, the appellant has preferred this appeal.

H 4. We have heard Mr. S. Ravi Shankar, the learned counsel for the appellant and the Learned Senior Counsel Mr.

C.U. Singh, appearing for the respondent-management and  
perused the impugned judgment and material on record.

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5. The short question is whether the compensation of  
Rs.1,00,000/- awarded by the High Court is to be enhanced.  
Appellant who was an ex-serviceman was employed with the  
respondent-company as a Turner in the Auto Division w.e.f.  
09.01.1978 drawing monthly wage of Rs.2,621/- and he  
worked till he was terminated on 07.05.1990. It is seen from  
the record that Mr. Kunjumon used harsh words and shoved  
the appellant towards the door and evidence would show that  
it was not a premeditated attack on Mr. Kunjumon. Both the  
Labour Court as well as the High Court recorded concurrent  
findings of fact that the misconduct of the appellant was proved  
on the basis of the evidence and that the punishment of  
dismissal was shockingly disproportionate. When the Labour  
Court passed the award, the appellant was about 59 years  
and he attained the age of superannuation in the year 2002.  
Considering the number of years which the appellant worked  
with the respondent and the facts and circumstances of the  
case, we are of the view that the interest of justice would be  
met if the compensation of Rs.1,00,000/- is enhanced to  
Rs.5,00,000/- which is inclusive of the compensation awarded  
by the High Court. The judgment of Bombay High Court is  
accordingly modified and the compensation is enhanced to  
Rs.5,00,000/- which shall be payable by the respondent within  
a period of eight weeks and in the event of default the same  
shall be payable with interest at the rate of 9% p.a. and the  
appeal is partly allowed. No order as to costs.

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Nidhi Jain

Appeal partly allowed.

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