

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 358 OF 1995

The Maharashtra State Seeds
Corporation Limited,
Seeds Process Centre,
Market Yard, Shrirampur,
District Ahmednagar.

..Petitioner

Versus

1. Gorakshanath Ramchandra
Randive, age
R/o Munshe-Vasti, Waladgaon,
Belapur, Tq.Shrirampur,
District Ahmednagar.

2. Member, Industrial Court,
Ahmednagar.

3. Ist Labour Court, Ahmednagar.

..Respondents

WITH
WRIT PETITION NO.360 OF 1995

The Maharashtra State Seeds
Corporation Limited,
Seeds Process Centre,
Market Yard, Shrirampur,
District Ahmednagar.

..Petitioner

Versus

1. Laxman Pandurang Raut,
age r/o Umbargaon,
Belapur, Tq.Shrirampur,
District Ahmednagar.

2. Member, Industrial Court,
Ahmednagar.

3. Ist Labour Court, Ahmednagar.

..Respondents

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Advocate for Petitioner : Shri C.K.Shinde
Advocate for Respondent 1 : Shri P.V.Barde
h/f Shri T.K.Prabhakaran

Respondents 2 & 3 : Deleted vide order dated 8.10.2015

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CORAM : RAVINDRA V. GHUGE, J.

Dated: October 08, 2015

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ORAL JUDGMENT :-

1. Both these petitions were admitted on 30.1.1995.
2. The respondents 2 and 3 stand deleted. Deletion be carried out forthwith, in both the matters.
3. By order dated 7.3.1995, passed in both the petitions, this Court has concluded that the contention of the petitioner / management that both the respondents had abandoned their services, would be gone into while deciding the petitions finally. The issue of no vacant posts was also to be considered. This Court restrained the petitioners from appointing any person in the cadre of Watchman / Labour unless these respondents are appointed. It is informed that pursuant to the said order, the respondents are out of employment.
4. The respondents employees have put in about two years with the petitioners, earlier as laborers then as watchmen and again as laborers. For the past 29 years, they are out of employment.
5. It is trite law that the claim of abandonment of service by the employer is in fact a charge levelled upon an employee. Unless the charge

is proved by conducting a domestic / departmental enquiry, the services of an employee cannot be dispensed with and he cannot be struck off the rolls of the employer in view of the decision of the Apex Court in the case of **Novartis India Limited Vs. State of West Bengal (AIR 2008 SC 836)**.

6. Notwithstanding the above, it needs to be noted that the respondents had put in only two years in service and are out of employment for 29 years. The Apex Court in the following judgments, wherein similar facts were before the Court, has ordered quantification of compensation in lieu of reinstatement with continuity of service and back wages:-

1. *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal [2013 LLR 1009]*,
2. *Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh [(2013) 5 SCC 136]*,
3. *BSNL Vs. Man Singh [(2012) 1 SCC 558]* and
4. *Jagbir Singh Vs. Haryana State Agriculture Marketing Board [(2009) 15 SCC 327]*.

7. Considering the ratio laid down by the Apex Court in the above referred judgments, I find it appropriate and reasonable to direct the petitioner to pay compensation of Rs. 60,000/- to each of these respondents in lieu of reinstatement and continuity of service and backwages. Said compensation amount shall be paid by the petitioners within a period of 12 weeks from today, failing which these amounts shall carry interests at the rate of 3% p.a. from the date of the judgment of the Industrial Court which is 26.10.1994.

9. At this juncture, Shri Shinde learned Advocate submits that as the respondent employees are untraceable, either the learned Advocate for the respondent shall supply their detailed address / whereabouts within a period of two weeks from today to the petitioner or the petitioner be permitted to deposit the said amounts before the Industrial Court at Ahmednagar to enable the respondents to withdraw the same as per their convenience. Shri Barde, learned Advocate for the respondents is agreeable.

10. As such, if the detailed address of the respondents is not furnished by them to the petitioners within two weeks from today, the petitioner will be at liberty to deposit the said amounts before the Industrial Court at Ahmednagar and in which case, the respondents will be permitted to withdraw the same without any conditions but by producing the tangible identity evidence.

11. Both these petitions are partly allowed and Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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akl/d