

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4583 OF 1995

Ukha Sonu More,
Age major, Occ. Nil,
R/o C/o Devidas Bondarde,
Seva Shramik Sangh, Narayanwadi,
Chalisgaon, District Jalgaon.

..Petitioner

Versus

Dy. Divisional Engineer,
Irrigation Sub-Division No.1,
Chalisgaon No.1, Chalisgaon,
District Jalgaon.

..Respondent

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Advocate for Petitioner : Shri V.Y.Patil

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CORAM : RAVINDRA V. GHUGE, J.

Dated: July 16, 2015

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ORAL JUDGMENT :-

1. This petition was admitted by order dated 27.9.1995. By order dated 21.6.1996, matter was expedited.
2. The petitioner claims to be a daily wager working with the Deputy Divisional Engineer, Irrigation Sub Division No.1, Chalisgaon - respondent herein. Despite service, the respondent has chosen not to cause an appearance, either through an Advocate or in person.
3. Shri Patil, learned Advocate submits that the petitioner had served from January 1988 till 8.1.1990 as a daily wage mazdoor. He was orally terminated on 8.1.1990. He promptly raised an industrial dispute and the same was referred to the Labour Court which was registered as Reference

(IDA) No. 9 of 1993.

4. It is further submitted that the oral termination dated 8.1.1990 is in violation of Section 25F, 25G and 25H of the Industrial Disputes Act, 1947. Juniors have been retained in service. He was earning Rs.19.60 Ps. per day on the date of termination. He led evidence by way of an affidavit.

5. It is further stated that the Labour Court failed to consider the material on record and has erroneously rejected the reference by the impugned judgment and award dated 14.2.1995. The reasons assigned in support of its conclusions are unsustainable and the impugned award deserves to be quashed and set aside.

6. Since none has appeared for the respondent, I have considered the submissions of Shri Patil and have gone through the petition paper book.

7. The petitioner has submitted an affidavit below Exhibit U/6 by way of his examination in chief. Besides contending that he had worked from January 1988 to 8.1.1990, there is no documentary evidence placed before the Labour Court. Notice for production of documents was also not filed by the petitioner, which could have enabled the Labour Court to issue necessary directions to the respondent to produce the record. The Labour Court has, therefore, concluded that besides the affidavit in lieu of examination-in-chief, the petitioner failed to establish that he had completed 240 days in the continuous and uninterrupted service of the

respondent.

8. The respondent had filed a Written Statement below Exhibit C/3, disputing the contentions of the petitioner set out in the statement of claim. However, it was admitted that the petitioner was working in between 1.2.1989 till 8.1.1990 and had put in 108 days in employment during this period. It was stated that he was deployed on work charge basis, whenever work was temporarily available.

9. The petitioner was aware of the issues cast by the Labour Court. In fact, the said issues were proposed by way of draft issues below Exhibit U/9 on 16.8.1994 by the petitioner. Yet, the petitioner did not choose to call for documents from the respondent, which left the Labour Court to conclude that there is no evidence on record to support the case of the petitioner. It was, therefore, concluded that when the onus and burden of establishing 240 days in continuous employment was not discharged by the petitioner, Section 25F and 25G could not have been invoked.

10. Considering the above and the fact that no evidence was placed before the Labour Court, I do not find any merits in this petition. The same is, therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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