

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 1018 OF 2010

The Executive Engineer,
Ahmednagar Pat Bandhare Division,
Ahmednagar. ...Petitioner...

Versus

Sudhakar Raghunath Lahunde,
At Post Ashiv, Tq. Sangamner,
District. Ahmednagar. ...Respondent...

.....
Shri. D. R. Korde, AGP for petitioner.
Shri. P. V. Barde, Adv. for respondent.
.....

CORAM: RAVINDRA V. GHUGE, J.

DATE: 10.12.2015

ORAL JUDGMENT :

1] This petition was admitted by order dated 23.3.2010. Interim relief was refused. By the impugned judgment dated 12.6.2009, Reference (IDA) No.53/2004 was

- 2 -

partly allowed and the respondent was granted reinstatement with continuity of service, without back wages.

2] Since the order was not implemented after rejection of the prayer for interim relief by this Court, the respondent had moved contempt proceedings. The petitioner, therefore, filed Civil Application No.13041/2010. This Court by its order dated 24.1.2011 refused to grant any stay to the relief of reinstatement. However, the continuity of service and monetary benefits were stayed subject to the condition that 50% of the amount recoverable from the date of the award till the date of reinstatement be deposited in this Court.

3] It is not in dispute that the respondent was reinstated and within two months from the date of reinstatement, he had retired on superannuation. It is also not in dispute that the respondent has withdrawn an amount of Rs.42,291/- deposited by the petitioner in this Court by giving an undertaking pursuant to the order of this Court dated 15.7.2011 in Civil Application No.6883/2011.

4] I have heard the learned Advocates for the

- 3 -

respective sides at length.

5] The events subsequent to the filing of this petition render this petition of an academic interest. I am, therefore, not adverting to the entire submissions of the learned Advocates.

6] The respondent had worked as a Majoor (Majdoor) from 22.2.1983 till 31.12.1986. He was terminated with effect from 1.1.1987. He raised an industrial dispute after more than 10 years on 21.7.1997, which was referred to the Labour Court and registered as Reference (IDA) No.53/2004. By the impugned judgment dated 12.6.2009, the oral termination dated 1.1.1987 was set aside and the respondent was directed to be reinstated in service with continuity, but without back wages.

7] It is apparent that the respondent has put in about 3 years and 10 months in service. He has been out of employment for the past 28 years. Order granting reinstatement has been passed after 22 years of his unemployment.

8] The Apex Court in the following four judgments has concluded that where short tenures of employment have been put in followed by long periods of unemployment,

grant of compensation in lieu of reinstatement with continuity and back wages is more practicable. :-

1] *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota v. Mohanlal* (2013 LLR 1009)

2] *Assistant Engineer, Rajasthan Development Corporation and another v. Gitam Singh* (2013) 5 SCC 136

3] *BSNL v. Man Singh* (2012) 1 SCC 558

4] *Jagbir Singh v. Haryana State Agriculture Marketing Board* (2009) 15 SCC 327.

9] As such, considering the effect of the ratio laid down by the Apex Court in the above referred four judgments, the effect of Section 17-B of the Industrial Disputes Act, 1947, the fact that the respondent was reinstated in service on 31.1.2011 and he superannuated on 31.3.2011, compensation by modifying the judgment of the Labour Court would be practicable.

10] The Apex Court has computed compensation approximately at the rate of Rs.30,000/- per year of service put in by the employee. The respondent has put in about 3 years and 10 months in employment. The compensation, therefore, going by the view of the Apex Court, would be roughly about Rs.1,00,000/-.

- 5 -

11] Since the respondent has already withdrawn an amount of about Rs.42,300/-, he shall be entitled to the residual amount of Rs.57,700/-, which the petitioner shall pay to the respondent within a period of six weeks considering the statement of Shri P.V. Barde that the respondent is terminally ill and has been admitted in the Tata Memorial Cancer Hospital, Mumbai, at its wing at Barshi Dist.Solapur.

12] It is, therefore, expected that the petitioner will act with sensitivity and shall ensure the payment of the said amount within the said period of six weeks, failing which the amount will attract simple interest @ 6% p.a. from the date of the judgment of the Labour Court.

13] This petition is, therefore, partly allowed and the impugned award dated 12.6.2009 is modified by grant of the above-stated compensation. No order as to costs.

(RAVINDRA V. GHUGE, J.)