

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 559 OF 1995

1. The State of Maharashtra
Through the Executive Engineer,
Nasik Irrigation Division,
Nashik.

2. The Dy. Divisional Engineer,
Godawari Left Canal,
Kopargaon Sub Division,
Tq. Kopargaon, Dist. Ahmednagar.

..Petitioners

Versus.

1. Namdeo Karbhari Kankrale
R/o Khunde, Tq. Kopargaon,
District Ahmednagar.

2. The Learned Judge,
Labour Court, Ahmednagar.

3. The Learned Member,
Industrial Court, Ahmednagar.

..Respondents

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AGP for Petitioners : Shri Kendre S.N.
Advocate for Respondent 1 : Shri Barde P.V.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: December 03, 2015
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ORAL JUDGMENT :-

1. This petition was admitted on 3.3.1995. By order dated 10.9.1999, passed in Civil Application No.4310 of 1999, the petitioner was directed to continue the respondent in employment and pay wages including the arrears, if any, for the days the respondent had actually worked.

2. I have heard the learned Advocates for the respective sides for quite

some time. Since the respondent had been reinstated, continued in service and is in employment even today, I am not entertaining this petition to the extent of the challenge to the order of reinstatement, since the respondent has settled in employment.

3. The petitioners have, therefore, canvassed that the respondent could not have been granted backwages as he was a daily wager. The principle of “No Work No Wages” would apply. He was working on the Employment Guarantee Scheme (“EGS”) and hence the complaint proceedings were untenable before the Labour Court.

4. Shri Barde submits that as the law stood then, Complaint (ULP) No.129 of 1988 was registered before the Labour Court and similar cases pertaining to employees working on EGS were entertained. The respondent was a Mustering Assistant working for the EGS and not on the EGS.

5. He submits that Complaint (ULP) No.129 of 1988 was dismissed by judgment and order dated 15.2.1991 by the Labour Court. His Revision Petition No. 15 of 1991 was partly allowed by the impugned judgment dated 29.4.1994. He was granted reinstatement in service with 50% backwages from the date of termination 28.2.1988 till his reinstatement in August 1994. However, 50% backwages for the period 15.4.1988 to 15.8.1988 were directed to be deducted from the backwages payable to the petitioner. Considering his monthly wages, the entire backwages would be about Rs.23,000/- out of which the petitioner is entitled for Rs.11,500/-. So also,

the deduction of 50% wages for the period 15.4.1988 to 15.8.1988 will be about Rs.500/-. The petitioner, therefore, would be entitled to a paltry amount of Rs.11,000/-.

6. In this backdrop, he submits that as this Court did not grant interim relief to the petitioner, it would be too harsh to interfere with the direction of payment of an amount of Rs.11,000/- after this petition has been pending for 20 years.

7. I have considered the submissions of the learned Advocates.

8. The operative part of the impugned Judgment reads as under:-

“The Respondents are further directed to reinstate the Revn. Applicant with continuity of service and half back wages from the date fo termination i.e. 28.2.1988 till the date of reinstatement. The Respondents are also directed to deduct the half back wages for the period of 15.4.1988 to 15.8.1988 and they are directed to implement this order within three months from the date of order.”

9. Since this Court had declined interim relief to the petitioners, the backwages of about Rs.11,000/- had actually become payable in 1995.

10. In these peculiar facts and especially in the light of the fact that this Court had declined interim relief to the petitioners, I am not interfering

with the direction of payment of backwages which could be an amount of Rs.11,000/-.

11. As such, in the event, the said amount of Rs.11,000/- has not been paid by the petitioners to the respondent, the same shall be paid within a period of eight weeks from today, failing which the said amount shall carry simple interest at the rate of 3 % p.a. from the date of judgment of the Industrial Court, which is 29.4.1994, till actual payment.

12. This petition is, therefore, dismissed.

13. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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