

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 558 OF 1995

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

2. The Deputy Engineer,
Godawari Left Bank Canal,
Sub Division, Kopergaon,
Taluka Kopergaon,
District Ahmednagar.

..Petitioners

Versus

1. Karbhari Ramchandra Kapse,
At and post Karanji,
Taluka Kopergaon,
District Ahmednagar.

2. The Learned Member,
Labour Court, Ahmednagar.

..Respondents

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AGP for Petitioners : Shri Salgare S.J.
Advocate for Respondent 1 : Shri Barde P. V.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 29, 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.4309 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 reference proceedings were untenable before the Labour Court.

4. Shri Barde submits that as the law stood when the reference was registered before the Labour Court, cases pertaining to employees working on EGS were entertained.

5. He further submits that the respondent was a daily wager and was living in starving conditions. If he worked for the entire month, he would earn Rs.300/- per month. 33% of the backwages have been granted by the Labour Court from the date of his termination till the date of his reinstatement. The entire backwages would be about Rs.38,000/-. Since 1/3rd backwages have been granted, the said amount would be somewhere around Rs.13,000/-.

6. In this backdrop, he submits that this Court did not grant any interim relief to the petitioner and it would be too harsh to interfere with the direction of payment of 1/3rd backwages (a paltry amount) 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 award reads as under:-

“The Reference is allowed. The first party is directed to take back the services of the second party workman Shri Karbhari Ramchandra Kapse and also directed to pay him 1/3 of the total back wages from the date of his termination till the date of this Award. Parties to bear their won costs.”

9. Since this Court had declined interim relief to the petitioners, the backwages of about Rs.13,000/- had actually become payable in 1995. The Labour Court had concluded that there was no evidence to prove that the respondent made efforts to get an alternate employment. Considering the evidence, the Labour Court had granted 1/3rd backwages.

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 1/3rd backwages which could be an amount of Rs.13,000/-.

11. As such, in the event, the said amount has not been paid by the petitioners to the respondent, the same (Rs.13,000/-) shall be paid to the respondent within a period of six weeks from today, failing which, the said amount shall carry simple interest at the rate of 3% p.a. from the date of the award i.e. 24.6.1994, till actual payment.

12. This petition is, therefore, dismissed.

13. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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