

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1652 OF 2014

Rajendra Bandu Suryanarayan,
Age 43 years, Occ. Labour
R/o Renuka Nagar, Bolegaon,
Taluka and District Ahmednagar.

..Petitioner

Versus

Ahmednagar Municipal Corporation
Taluka and District Ahmednagar,
Through its Commissioner.

..Respondent

...
Advocate for Petitioners : Shri Barde Parag Vijay
Advocate for Respondent : Shri Bedre Vinayak Sudhakar

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 29, 2015
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ORAL JUDGMENT :-

1. Heard.

2. Rule.

3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. I have heard Shri Barde and Shri Bedre, learned Advocates for the petitioner and the respondent-Municipal Corporation, respectively for quite some time.

5. In the light of the order that I intend to pass of remitting the

reference proceedings to the Labour Court, I am not advertent to their entire contentions since I would be directing the Labour Court to decide the reference afresh and by framing proper issues.

6. The petitioner claims to have joined as a Recovery Clerk with the Bolegaon Gram Panchayat in 1989. On 15.11.1991, he claims to have been granted permanency. It is undisputed that he was terminated on 1.8.1997. On 29.6.1999 Golegaon Gram Panchayat merged in the Ahmednagar Municipal Council. On 30.6.2003, the Municipal Council, Ahmednagar was transformed in to the Ahmednagar Municipal Corporation.

7. The petitioner raised an industrial dispute in relation to his termination which was referred to the Labour Court and registered as Reference (IDA) No. 24 of 2010. By judgment and award dated 13.11.2013, the said Reference was answered in the negative which is impugned in this petition.

8. The respondent has specifically contended in its Written Statement that the petitioner has been terminated on 1.8.1997 for having committed a grave mis-conduct. After 13 years, the petitioner has taken the cause of action to the Labour Court.

9. I find that the Labour Court has gone into the rival contentions of the parties as well as the oral and documentary evidence before it. It has concluded in paragraph No.11 that the termination of the petitioner is

stigmatic on account of the charge of misappropriation having been levelled upon him. It has also concluded that no enquiry was conducted. The aspect of the right of the employer to conduct an enquiry before the Labour Court has not been dealt with. Nevertheless, the Labour Court has come to a conclusion that the dispute raised by the petitioner is after a lapse of 11 years and 10 months from the date of his termination and therefore, the dispute becomes stale and cannot be entertained. It is on this ground that the Labour Court concluded that the delay is inordinate and cannot be condoned.

10. The conclusion of the Labour Court that the Reference was stale and hence cannot be entertained, is unsustainable. There is no limitation prescribed under the Industrial Disputes Act for raising an industrial dispute with regard to Section 2A. At best, the Labour Court could have considered the dispute on its merits and could have deprived the petitioner of all monetary benefits for the period intervening his date of termination and the date of Reference of the dispute to the Labour Court, in the event the Reference was to be allowed. The Labour Court has erroneously concluded that the so called delay of 11 years and 10 months is fatal to the proceedings.

11. In the light of the above, the impugned award dated 13.11.2013 is quashed and set aside. Reference (IDA) No.24 of 2010 is remitted back to the Labour Court for fresh adjudication. The litigating sides shall appear before the Labour Court on 29.8.2015. Both the litigating sides are at

liberty to suggest draft issues to the Labour Court, which shall thereafter, formalize the issues concerning the factum of termination of the petitioner. Needless to state, both the sides are permitted to lead additional evidence besides the oral and documentary evidence already on record.

12. The petition is, therefore, partly allowed. Rule is made partly absolute in the above terms. No order as to costs.

(RAVINDRA V. GHUGE, J.)

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