

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3941 OF 2015

Hausabai Natha Randive,
Age-65 years, Occu-Nil,
R/o.Ustaldumala, Tq.Newasa,
District : Ahmednagar

PETITIONER

VERSUS

Social Forestry Department,
Sudke Mala, Ahmednagar,
Through Depty Director

RESPONDENT

WITH
WRIT PETITION NO.3947 OF 2015

Bhagubai Walmik Khandagale,
Age-65 years, Occu-Nil,
R/o. Ustal dumala, Tq.Newasa,
District Ahmednagar.

PETITIONER

VERSUS

Social Forestry Department,
Sudke Mala, Ahmednagar,
Through Deputy Director

RESPONDENT

Mr.P.V.Barde, Advocate for the petitioners.
Mrs.S.D.Shelke, AGP for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 17/08/2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. This Court, while issuing notice in both these matters on 20/04/2015, has recorded the submissions of the petitioner in paragraph No.1 as follows :-

“1. Learned counsel for petitioner submits that in identical situation compensation has been granted by the Apex Court to the tune of Rs.3,00,000/-, therefore, he confines scope of this writ petition only to the extent of consideration in respect of enhancement of compensation awarded.”

3. It is not disputed that the respondent has not challenged the impugned judgment and award dated 07/05/2014 in Ref.(IDA) No.17/2006 and 13/2006, respectively. It is also not disputed that both these petitioners had put in about 5 years in continuous service from 1987 till 1992 and were awarded compensation of Rs.75,600/- each in both the reference cases.

4. The learned AGP has strenuously opposed the claim of the petitioners. She submits that the Apex Court in the case of O.P.Bhandari Vs. ITDC, 1986 SCC (4) 337 has rightly laid down the formula for calculating the amounts of compensation payable to individuals. She, therefore, submits that the Labour Court has appropriately concluded in paragraph No.21 of the impugned awards in both these cases and has rightly granted the compensation of

Rs.75,600/- each.

5. I find that the Apex Court has dealt with similar issues of short tenures of employment as like 3 years to 5 years and long periods of unemployment of about 15 years to 20 years in the following four cases.

1. *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub Division, Kota Vs. Mohanlal, 2013 LLR 1009,*
2. *Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh, (2013) 5 SCC 136,*
3. *BSNL Vs. Man Singh, (2012) 1 SCC 558,*
4. *Jagbir Singh Vs. Haryana State Agriculture Marketing Board, (2009) 15 SCC 327.*

6. This Court, by placing reliance on the above referred 4 cases, and considering that the employee had benefited under section 17B for about 14 years, has in the case of State of Maharashtra Vs. Santosh Gorakh Patil, 2015 (3) Mh.L.J. 922 granted compensation of Rs.50,000/- to the said employee, who was out of employment for about 28 years.

7. In the instant case, there is no issue of any benefit of Section 17B of the Industrial Disputes Act, having been acquired by these

petitioners. By placing reliance upon the four judgments of the Apex Court, the quantification of compensation in lieu of reinstatement with continuity and back wages would be roughly around Rs.30,000/- per year of service, in the event no benefit under Section 17B has been availed of by the concerned employee.

8. In the instant case, therefore, I am of the view that the compensation @ Rs.30,000/- per year for having put in about 5 years in employment would entitle the petitioners to an amount of Rs.1,50,000/-.

9. Mr.Barde has controverted the submissions of the learned AGP by stating that the judgment of the Apex Court in the case of O.P.Bhandari (supra) dates back to 1986 and almost 3 decades have lapsed thereafter. He, therefore, relies upon the judgment of the Apex Court in the case of Bhavnagar Municipal Corporation Vs. Jadeja Govubha Chhanubha, 2015(144) FLR 177.

10. I have considered the submissions of the learned Advocates as well as the ratio laid down by the Apex court in the Bhavnagar case (supra). In the said case, the concerned employee had worked in between October 1987 and March 1989 and was granted

reinstatement with continuity and 65% of the back wages. The said ratio, therefore, would not be applicable to this case.

11. In the light of the above, the impugned judgments and awards both dated 07/05/2014 in Ref.(IDA) No.17/2006 and 13/2006 are modified and replaced by a direction to the respondent to pay compensation of Rs.1,50,000/- each to both the petitioners within a period of 12 (twelve) weeks from today, failing which, the said amounts shall carry interest @ 6% p.a. from the date of the awards dated 07/05/2014 till actual payment of the said compensation.

12. Both the petitions are, therefore, partly allowed and Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)