

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8515 OF 2014

The Chief Officer,
Nagar Parishad, Paranda,
Tq. Paranda, Dist. Osmanabad.

...Petitioner

versus

Nagesh s/o Bandu Shinde,
Age: Major, Occ: Service,
R/o. Samta Nagar, Zopad Patti,
Paranda, Dist. Osmanabad.

...Respondent

.....
Mr. Abhijit S. More, Advocate for petitioner.
Mr. Anant R. Devkate, Advocate for respondent.
.....

CORAM : SUNIL P. DESHMUKH, J.

DATE : 9th FEBRUARY, 2015

ORAL ORDER :

1. Under this writ petition, the petitioner has challenged the judgment and award dated 18-11-2003 passed in Reference (IDA) No. 29 of 2001. Under said award, the petitioner was directed to reinstate the respondent herein, with continuity in service but without back wages. The writ petition is presented in this Court on 03-03-2014.

2. Learned Counsel for the petitioner submits that pursuant

to the award, the respondent had been reinstated and he appears to be working as daily wager. He submits that, since the respondent is a daily wager, he cannot be considered for continuity of service. He further submits as such he was not entitled to any back wages.

3. Mr. Devkate, learned Counsel for the respondent, on the other hand, submits that the petition does not deserve any consideration on merits as there are none and as the award is passed in 2003, the same is challenged in 2014 i.e. after about 11 years and as such suffers *laches*. He submits that even otherwise there is no substance in the contentions as are taken by the petitioner.

4. Learned Counsel for the petitioner submits that delay in submission of the writ petition would hardly be attributable to the petitioner for necessary papers were handed over to an advocate for submission of the writ petition, however for 11 years he had not filed the same and as such, the petitioner would not be responsible for delay, as occurred.

5. Learned Counsel for respondent, however, contends that there is nothing on record to show that as to what steps were taken for lodging writ petition after giving instructions under letter

dated 29-08-2005. In such case, it was necessary for the petitioner to follow up the matter seriously, however, the record depicts that the petitioner had not bothered about the matter for eleven long years and even thereafter matter did not proceed beyond correspondence.

6. He places reliance on an order passed by this Court in Writ Petition No. 7942 of 2011 dated 05-07-2012. According to him, under similar circumstances, this Court has refused to interfere with the award impugned therein, on the ground of *laches*. In that case, the contention was also raised that after passing of order dated 01-09-2005, papers for filing writ petition were handed over by the petitioner to an Advocate, who in turn, requested for copies of some documents and thereafter nothing had been done. On this background, it is the contention of the respondent that situation is still worse in the present matter, as it appears that after first communication to the lawyer on 29-08-2005, so called action is only in 2013. He, therefore, submits that there is no substance in the contentions seeking to explain delay.

7. In the present case, award has been passed in 2003 and for further 11 years, there had been no action. There is no explanation for long silence of 11 years. The petitioner had moved matters in respect of some other labourers, however, did not bother

to see the progress with respect to matter to be taken up against present respondent. There are serious lapses and *laches*. The writ petition, as such, would not be entertained and is dismissed.

[SUNIL P. DESHMUKH, J.]