

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11824 OF 2014

Mahatma Phule Krushi Vidyapith,
At post Rahuri, Tq. Rahuri,
District Ahmednagar through
its Registrar.

..Petitioner

Versus

Asaram Ramchandra Gaikwad,
Age ... years, Occ. Nil,
R/o Mula Nagar, Tq. Rahuri,
District Ahmednagar.

..Respondent

...
Advocate for Petitioner : Shri Shelke Avishkar S.
Advocate for Respondents : Shri Barde Parag Vijay

...
CORAM : RAVINDRA V. GHUGE, J.
Dated: October 05, 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. The petitioner - Agricultural University is aggrieved by the judgment and award dated 31.12.2013, by which, the Labour Court has granted compensation of Rs.1,72,500/- in lieu of reinstatement in service and continuity.

5. The petitioner points out that this is its second round of litigation upto this Court. The respondent had earlier approached this Court in Writ Petition No.9717 of 2012 and the University had filed a Counter Writ Petition No. 7001 of 2013. This Court, while disposing off both the petitions on 14.10.2013 had observed in paragraph Nos.6 and 7 as under:-

“6. With the consent of the parties, the impugned judgment and order dated 23.4.2012 passed by the 1st Labour Court, Ahmednagar in Ref. IDA No.9 of 2005 is quashed and set aside to the extent of compensation calculated by the Court below in lieu of reinstatement. It is made clear that no other issue would be raked up and the parties fairly concede that they would restrict themselves to contest the issue only as regards computing the compensation in lieu of reinstatement.

7. The 1st Labour Court, Ahmednagar will make it's best endeavour to decide the said issue as expeditiously as possible and preferably within a period of three months from the receipt of this order. Both parties though agree that no further evidence would really be required, seek liberty to keep that issue open so as to ensure that if any evidence is required to be adduced, it would be so done as expeditiously as possible. Both the parties agree to appear before the 1st Labour Court, Ahmednagar on 18.11.2013.”

6. Shri Shelke learned Advocate, therefore, submits that the only issue raised in this petition is as to whether the Labour Court has rightly quantified the compensation in the impugned award.

7. He submits that the respondent had specifically averred in his Complaint that he was working continuously from 1974 till 16.9.1997. Even if it is presumed that he was about 18 years old at the time of joining duties, he would be 45 years old in the year 2001 when all similarly placed daily wagers were retrenched by Agricultural Universities in Maharashtra. He, therefore, submits that by the quantification by the Labour Court, following the ratio laid down by the Apex Court in the case of O.P.Bhandari Vs. Indian Tourism Development Corporation [1986 (4) SCC 336], the respondent at best would be entitled for compensation for about 12-13 years since 58 is the age of retirement for such daily wagers. Shri Shelke, therefore, submits that the conclusion of the Labour Court that 18 years of service was available to the respondent, is an erroneous conclusion. He, prays for reduction in the amount of compensation.

8. Shri Barde, learned Advocate for the respondent submits that the respondent was born on 22.7.1961. Though he claimed to have joined employment in 1974, same is improbable as he was only 13 years old in 1974. He further submits that it was established before the Labour Court on the basis of documentary evidence that the respondent had joined duties as a daily wager in 1984 at the the age of 23 years. As such, he was about 40 years old in 2001. 18 years of service, remaining from 2001 onwards has been rightly considered by the Labour Court. The ratio laid down in O.P.Bhandari's case was rightly followed. No error can thus be pointed out in the conclusion drawn by the Labour Court.

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

10. The only issue raised in this petition is as to what was the residual service of the respondent post 2001. Since the birth date of the respondent is 22.7.1961, the Labour Court has rightly held that about 18 years of service was remaining considering the age of retirement at 58 years.

11. I, therefore, do not find that any error is committed by the Labour Court in calculating the residual portion of the respondent's service.

12. The Labour Court has granted interest of 9% per annum. No reasons are adduced while granting the said interest. It was in peculiar facts that this Court had remanded the reference proceedings to the Labour Court by its order dated 14.10.2013.

13. In my view, ends of justice would be met by directing the petitioner to pay the amount of Rs.1,72,500/- as quantified by the Labour Court within eight weeks from today, failing which, the interest as ordered by the Labour Court would be awarded from 1.3.2014.

14. This petition is, therefore, partly allowed. The petitioner shall pay the compensation amount of Rs.1,72,500/- to the respondent within eight weeks from today, failing which the amount shall carry an interest at the rate of 9% per annum with effect from 1.3.2014. The impugned judgment, therefore, stands modified accordingly,

15. Rule is partly made partly absolute in above terms.

(RAVINDRA V. GHUGE, J.)

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