

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10110 OF 2014

Ram Bhojeba Hirwe
Age 43 years, Occ. Service,
R/o at post Chinchgavhan,
Tq. Majalgaon, Dist. Beed.

..Petitioner

Versus

Executive Engineer,
Public Works Division,
Beed.

..Respondent

WITH
WRIT PETITION NO. 10128 OF 2014

Baliram Maruti Doke,
Age 431 years, Occ. Service
R/o Vaidya Kinhi, Tq. Patoda,
District Beed.

..Petitioner

Versus

Executive Engineer,
Public Works Division,
Beed.

..Respondent

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Advocate for Petitioners : Shri Shahane P.L. a/w Shri Shahane P.P.
AGP for Respondent 2 : Smt. Shinde V.A.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 10, 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 first petitioner had worked for about 15 months as a daily wager with the respondent / department and was terminated on 31.12.1984. The petitioner in the second case also put in about 15 months as a daily wager and was terminated on 2.2.1991.

5. The two Industrial Disputes were referred to the Labour Court which were registered as Reference IDA Nos. 92 of 1993 and 143 of 1991. Both the reference cases were allowed *ex parte* by judgment and award.

6. In Writ Petition No. 9079 and 9046 of 2010, this Court by its order dated 2.5.2011 allowed the petitions partly and directed the department to provide work to these petitioners. The awards dated 21.10.2004 and 14.8.2002 were set aside.

7. By the impugned judgment and award dated 20.8.2013, the Reference proceedings were restored. The petitioners were not paid their monthly wages. This Court by its order dated 7.3.2014 disposed off the two petitions Nos. 7531 and 7575 of 2013 filed by these petitioners. It was directed that the petitioners should be paid Rs.5,000/- each for the period 1.6.2011 to 1.9.2011 and shall be allotted work till the

decision in the reference cases.

8. The Reference cases were, therefore, decided afresh and by the impugned award dated 20.8.2014, they were answered in the negative.

9. It is stated by the learned Advocates for the petitioners that presently, both the petitioners have been reinstated and they are continuing in employment. They have been protected by the order of this Court dated 24.11.2014. Both of them have a short tenure left and in a period of about 3-5 years, they are likely to reach the age of superannuation. It is further stated that under the first orders passed by this Court, dated 2.5.2011, they have been continued in employment. It is, therefore, prayed that ends of justice would be met if the petitioners are allowed to work on the present conditions of employment till their superannuation.

10. The learned AGP has strenuously opposed the said request. It is submitted that the petitioners are being given work and they are working on such service conditions as are made applicable to them. It is only under Court orders, beginning from the order dated 2.5.2011 that the petitioners are being given work or wages, with effect from 29.7.2011. Merely because a short period of service remains till their superannuation, would not mandate that they should be continued in employment.

11. I have considered the peculiar facts of this case. It was under the first order of this Court dated 9.5.2011 that the petitioners were initially paid their monthly consolidated wages and then given work as a Watchman / Mail Mazdoor. Even today, they are in employment. If the interim order of this Court, dated 24.11.2014 is to be continued till the disposal of this petition, both the petitioners would remain in employment and these petitions are likely to be heard finally after their superannuation.

12. It is in this backdrop that I am of the view that equities would be balanced and ends of justice would be met by directing the respondents to continue the petitioners on the same service conditions under which they are working today till their superannuation. Since this order is being passed in the above recorded peculiar circumstances and the three rounds of litigation up to this Court, this order shall not operate as a precedent.

13. The respondents shall record the birth dates of these petitioners and if in the event of any absence of such record of birth date, the respondents shall refer both the petitioners to the competent Medical Board so as to determine their age. Such determination shall bind both the sides and the petitioners shall then stand superannuated on completion of 58 years of age.

14. It is made clear that they shall not be entitled for any other benefits inclusive of any retiral benefits in the light of the fact that their reference cases have been dismissed by the Labour Court.

15. Both these petitions are, therefore, partly allowed with the above observations and directions and Rule is accordingly, made partly absolute. No order as to costs.

(RAVINDRA V. GHUGE, J.)

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