

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3213 OF 2015

M/S. VARDHAMAN ENGINEERING WORKS
VERSUS
TABAJI BHIMAJI KARLE

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Advocate for Petitioner : Shri Bora Satyajit S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 13, 2015

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PER COURT :-

1. The petitioner challenges the judgment and order dated 8.5.2012 delivered by the Labour Court, Ahmednagar in Complaint (ULP) No. 80 of 2002 by which the Labour Court has granted compensation of Rs.1,00,000/- in lieu of reinstatement in service, to the respondent.

2. The petitioner is also aggrieved by the judgment and order dated 30.9.2014, delivered by the Industrial Court, Ahmednagar in Revision (ULP) No.64 of 2012, filed by the petitioner and Revision (ULP) No.109 of 2012 filed by the respondent, both of which have been dismissed. Grievance is that the compensation of Rs.1,00,000/- has been enhanced to Rs.1,50,000/- by the Industrial Court.

3. Issue is only as regards quantifying compensation in lieu of reinstatement.

4. Shri Bora, learned Advocate for the petitioner strenuously submits

that no reasons have been assigned by the Industrial Court while increasing the compensation from Rs.1,00,000/- to Rs.1,50,000/-. The impugned judgment is an outcome of non-application of mind . Conclusion of the Industrial Court that enhancement of the compensation would not cause any prejudice or harm to the employer is unsustainable since the said conclusion has been based on an assumption by the Industrial Court that the respondent had rendered more than ten years in employment. He further submits that the actual tenure of employment of the respondent was from 13.11.1996 till 10.6.2002. He, therefore, prays for quashing and setting aside of the impugned judgments.

5. I have considered the submissions of Shri Bora, as have been recorded herein above.

6. The Labour Court had applied its mind to the case while concluding that the employer be directed to pay compensation in lieu of reinstatement considering that the employee has been out of service for more than ten years. The Industrial Court by the impugned judgment has enhanced the compensation, taking into account that the respondent was working as a CNC Operator, which is a skilled job.

7. The Apex Court has in catena of judgments concluded that if the Court finds it practical and pragmatic to avoid reinstatement and thereby compensate an employee with compensation, the Court should resort to this option. Long span of unemployment is one of the factors taken into

account by the Apex Court. Such ratio has been laid down in the following four judgments:-

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] and
4. *Jagbir Singh Vs. Haryana State Agriculture Marketing Board* [(2009) 15 SCC 327].

8. The Apex Court in the case of Syed Yakoob Vs. K.S. Radhakrishnan and others, [AIR 1964 SC 447], has held that this Court could exercise its writ and/or supervisory jurisdiction if it finds that the impugned order is likely to cause grave injustice to a litigating side. Merely because a second view is possible would not render the impugned judgment perverse or erroneous. Similar is the view expressed by the apex Court in the case of Surya Dev Rai Vs. Ram Chander Rai [2003(6) SCC 682].

9. In the light of the above, I do not find that the impugned judgment of the Industrial Court could be termed as being perverse or erroneous. This petition being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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