

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

LETTER PATENT APPEAL ST. NO. 32297 OF 2011
IN
WRIT PETITION NO. 1492 OF 2011.

THE DEPUTY DIRECTOR DISTRICT ANIMAL HUSBANDRY
DEPARTMENT
VERSUS
PADMABAI PRATAPRAO SHINDE

...

Advocate for Appellant : Mrs. MA Deshpande, AGP
Mr. P. V. Barde, Adv. For R/sole.

**CORAM : R.M.BORDE &
P.R.BORA,JJ.**

DATE : 10th JULY, 2015.

PER COURT :

1) Head. The appeal presented by the State takes exception to order passed by the learned Single Judge in Writ Petition No.1492/2011 decided on 7.7.2011.

2) The Respondent was a daily wager appointed on temporary basis in 1974, and has rendered her services for some period and since there was no work available, she was not provided with the work. She presented a complaint in the year 2000 under the provisions of MRTU and PULP Act, alleging unfair labour practice on the part

of the employer. The Complaint came to be dismissed and thereupon the appellant presented an application seeking Reference under the provisions of Industrial Disputes Act and the application was referred to the Court by the Commissioner on 19.1.2002. In the month of July 2002, the learned Judge of the Labour Court proceeded to issue notices to the parties and ultimately by order dated 2.7.2010, the learned Judge of the Labour Court allowed the Reference directing reinstatement of the respondent in service, however, refused the back wages to her. Accordingly, the Respondent joined the services in pursuance of the order passed by the Labour Court on 24.2.2011 and was superannuated on 29.2.2012. The respondent was also paid a sum of Rs.62,357/- towards medical reimbursement on 6th February, 2013.

3) The order passed by the Labour Court refusing back wages was the subject matter of challenge in the writ petition. The learned

Single Judge proceeded to allow the writ petition and directed the employer to pay back wages to the petitioner/employee w.e.f. 19.4.2004. The order passed by the learned Single Judge is patently illegal for the reason that the Respondent/employee did not work during the intervening period from 1981 onwards. Further, she was continued in service purely as a daily wagger for few days and even there is no record to indicate that she has completed 240 days' of service in a calendar year. Apart from this, even after dismissal of the Complaint, delayed reference came to be presented. In such circumstances, the employer cannot be put to burden for payment of back wages. Belated claim, raised by the employee, in fact, ought not to have been entertained by the labour court. Even otherwise, the order passed by the Labour Court, directing reinstatement of the employee in service, has been accepted by the State and she was permitted to resume the duties. The order passed by the learned Single Judge granting back

wages to the employee, is without appreciating the facts and circumstances of the case and without noticing belated approach of the employee by presenting the reference after 23 years of the accrual of the cause of action. The Letters Patent Appeal, therefore, deserves to be allowed and the same is accordingly allowed.

4) Learned Counsel appearing for the employee has presented an affidavit, sworn in by son of the employee, pointing out that presently the employee is suffering from cancer of urinary bladder and she was operated upon at Tata Memorial Center Rural Cancer Project at Barshi and she is also taking regular treatment at Cancer Hospital at Barshi.

5) Looking to the hardships faced by the employee and since the employee is under-going medical treatment, we deem it appropriate to direct the State Government to pay some more amount to the employee on humanitarian grounds. As such, we direct the appellant to pay further sum of Rs.50,000/- (Rupees fifty thousand) to the

employee purely on humanitarian consideration as expeditiously as possible and preferably within six weeks from today.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

bdv/