

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 7141 OF 2014

Mr.Sanjay Ananda Dakave & ors. ... Petitioners

v/s

Maharashtra State Road Transport
Corporation, Kolhapur. ... Respondent

***ALONG WITH
WRIT PETITION NO. 8737 OF 2014***

Mr.Prashant Shamrao Patil & ors. ... Petitioners

v/s

Maharashtra State Road Transport
Corporation, Kolhapur. ... Respondent

Mr.P.M. Palshikar i/by Geetanjali Golatkar for the petitioners in both petitions.

Mr.G.S. Hegde along with C.M.Lokesh for the respondent in both petitions.

CORAM: N.M. JAMDAR, J.

DATED : 15 SEPTEMBER 2015

ORAL ORDER:

Both these petitions are filed by the workmen challenging the orders passed by the Labour Court, Kolhapur. These two petitions are filed by the workmen in whose case references were made

individually and heard by the Labour Court and answered in negative by the Labour Court by the impugned order dated 17 June 2013.

2. It was the case of the Petitioners that they were in employment of the Respondent Corporation as Safai Kamgar for the period ranging between 1981-1989 up-to the year 1991. According to them, they had completed 240 days in each year and in spite of this position their services were terminated without following the procedure of law, especially Section 25-F of the Industrial Disputes Act, 1947. Accordingly, the Petitioners sought reinstatement with back wages.

3. The Labour Court, Kolhapur, answered the references in negative on the ground that the Petitioners were not able to show that they had completed 240 days in the relevant period and also that in spite of their alleged termination in the year 1992, they approached the Government authority after a lapse of 15 to 20 years.

4. Learned counsel for the Petitioner sought to contend that the Petitioners were espousing their cause in an earlier Complaint and that Complaint was dismissed on the ground that the Complainant Union was not a recognized. However, even if that is considered as a ground in favour of the Petitioners, the pendency of the earlier Complaint was only for a period of five years and even that period

is excluded, there was still a delay of 10 years in invoking the legal remedy. Learned counsel for the Petitioners thereafter sought to contend that the Labour Court could not have gone behind the references and ought to have considered without looking at the factum of delay. Since the Petitioners have approached this Court invoking its equitable jurisdiction seeking certain reliefs, this Court is entitled to consider whether the cause they seek to espouse is a stale cause. Admittedly, even as per the Petitioners, they sought the legal remedy after a period of 15 years. In view of this position and unexplained delay on their part, the order of the Labour Court cannot be faulted.

5. The Labour Court has also recorded a finding of fact that the Petitioners had not completed the requisite period of 240 days. This is a finding of fact based on the material placed before the Labour Court. It is not possible to re-appreciate the evidence on record. Except making a statement that they had completed 240 days, no cogent material is placed on record by the Petitioners in furtherance of their claim. Therefore, even on this count, the Petitioners are not entitled to succeed.

6. In the circumstances, the writ petitions cannot be entertained and are rejected.

(N. M. JAMDAR, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.