

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.560 OF 2015

[Union of India and one .vs. Venubai wd/o Tulshiram Damaji]

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri R.S. Sundaram, counsel for the petitioners,
 Shri Anil Bambal, counsel for the respondent.

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CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATED : AUGUST 26, 2015.

Heard.

By this petition, the petitioners impugn the order of the Central Administrative Tribunal, dated 23.7.2014 allowing the Original Application filed by the respondent and directing the petitioners to release the admissible pensionary benefits to the respondent, within three months from the date of the judgment.

It is not disputed by the learned counsel for the parties that the legal issue involved in this case stands answered against the the petitioners by the judgment, dated 24.6.2015 in Writ Petition No.4513/2014. In fact, an averment is made in para 7 of this writ petition that the petitioners had challenged a similar order passed by the Central Administrative Tribunal in Writ Petition No.4513/2014. At the relevant time, the said writ petition was pending, but the same was decided on 24.6.2015 during the pendency of this writ petition and the writ petition was dismissed.

Though the legal issue involved in this case stands answered against the petitioners and the learned counsel for the petitioners has admitted the same, it is submitted by the learned counsel that the relief could not have been granted to the respondent herein as the respondent was not employed as a casual labourer since the year 1969, as claimed by him. It is stated that the Tribunal has

erroneously relied on the Labour Card produced by the respondent to hold that the respondent had worked as a casual labourer since the year 1969. It is stated that the document was not authenticated and the same could not have been relied on by the Tribunal while granting the relief.

On hearing the learned counsel for the parties, it appears that the issue involved in this case stands answered against the petitioners by the judgment, dated 24.6.2015 in Writ Petition No.4513/2014. In Writ Petition No.4513/2014 an identical issue was involved and this court has dismissed the said writ petition by the judgment, dated 24.6.2015. The submission made on behalf of the petitioners that the respondent was not employed in the year 1969 and, therefore, the Tribunal was not justified in granting the relief to the petitioner/respondent, is liable to be rejected. It is necessary to note that in the instant petition, an averment is made in para 2 of the writ petition that as per the Labour Card, the respondent had worked as a casual labour for 3392 days during the period from 21.10.1969 to 18.11.1979. Also in para 4 of the written statement, the following statement is made :

“It is submitted that as per the casual labour card issued by PW1 Wardha Shri Tulsiram Damji Retd. Gangman has worked as Casual Labour for about 3392 days in various spells during the period 21.10.1969 to 18.11.1979. However, for want of availability of such old records, the service of Shri Tulsiram Damji Retd. Gangman, respondent herein, cannot be verified.”

It is apparent from the statement made in the written statement that the petitioners have not disputed that the respondent was working as a casual labour in various spells during the period from 21.10.1969 to 18.11.1979. Merely because the old records have been misplaced by the petitioners, the petitioners cannot be permitted to deny the benefits of the service rendered by the respondent as a casual labour during the period from 21.10.1969 to 18.11.1979. Since the other similar petition filed by the petitioners against the employees is

dismissed, a lame attempt has been made on behalf of the petitioners to ensure that the respondent is not granted the pensionary benefits. The submission made on behalf of the petitioners stands falsified by the averment in this petition as also the statement made in the written statement filed by the petitioners before the Central Administrative Tribunal. The finding of fact in regard to the services of the respondent as a casual labourer from 1969 to 1979 cannot be lightly interfered with, in exercise of the writ jurisdiction.

Hence, for the reasons aforesaid and also for the reasons recorded in judgment, dated 24.6.2015 in Writ Petition No.4513/2014, we dismiss the writ petition with costs.

JUDGE

JUDGE

Gulande