

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2759 OF 1995

Shri Gautam s/o Mahadu Narwade
Age: 28 Yrs., occu. unemployed,
R/o Buddhanagar, Jawahar Colony,
Aurangabad. = **PETITIONER**

VERSUS

- 1) The State of Maharashtra.
- 2) The Executive Engineer,
Mechanical Division No. II,
Aurangabad.
- 3) The Presiding Officer,
Labour Court, Aurangabad. = **RESPONDENTS**

Mr. SW Mundhe, AGP for Respondents.

CORAM : P.R.BORA, J.

DATE : 20th June, 2016.

ORAL JUDGMENT:

- 1) None for petitioner. Even on earlier occasion, i.e. on 9.6.2016 also nobody has appeared for the petitioner and this Court had passed the following order, -

" None appears for petitioner. However, in the interest of justice, by way of last chance, the matter stands adjourned to 16th June, 2016.

2. If the matter is not proceeded with on the adjourned date, necessary orders will follow "

2) Today also, none appears for the petitioner. Shri Mundhe, learned AGP appears for the respondents. With the assistance of learned AGP, I have perused the impugned order and the material placed on record. The record reveals that a dispute was raised before the Deputy Commissioner of Labour relating to the prayer of the petitioner employee for his reinstatement in service with the respondent employer and accordingly, the Reference was made under Section 10 and 12 of the Industrial Disputes Act by the Deputy Commissioner of Labour, Aurangabad and was forwarded for adjudication to the Labour Court at Aurangabad.

3) It was the contention of the petitioner

employee before the Labour court that he was appointed as Helper w.e.f. 2.4.1985 and that he continuously worked thereafter till 21st September, 1987. It was his further contention that his father was an employee of the respondent employer and after his retirement, he ought to have been continued in the services on his place.

4) As against it, it was the submission on behalf of the respondent employer before the Labour Court that the petitioner employee was provided a fixed time appointment purely on humanitarian considerations. It was further contended that the petitioner never continuously worked with the respondent so as to claim the benefits available to a permanent employees under the provisions of the Industrial Disputes Act. It was further contended that the last appointment was issued in favour of the petitioner employee on 20th July, 1987, wherein there was a clear stipulation that his appointment will come to an end by 21.9.1987 and accordingly, the petitioner

was not provided any work thereafter.

5) Having considered all these facts, the Labour Court, by observing that the appointment issued in favour of the petitioner was a temporary and fixed time appointment and carrying the stipulation therein that after expiry of the said period, without any notice, the services of the petitioner will automatically stand terminated, has recorded a conclusion that the case of the present petitioner was falling under the purview of Section 2(oo)(bb) of the Industrial Disputes Act and in the circumstances, the Labour Court rejected the Reference.

6) In the present petition, after having perused the grounds of objections, no such ground is raised so as to cause any interference in the order passed by the Labour Court. The same contentions are reiterated by the petitioner in the memo of petition that he had continuously worked and that after retirement of his father,

the department ought to have continued him in the services in the place of his father.

7) After having gone through the material on record, it does not appear to me that the learned Labour court has committed any error in rejecting the Reference. The Writ Petition is devoid of any substance and stands rejected. In the circumstances, no order as to costs. Rule discharged.

**Sd/
(P.R.BORA,J.)**

bdv/