

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

WRIT PETITION NO. 3785 OF 1997

- 1 The State of Maharashtra.
- 2 The Senior Geologist,
Ground Water Survey Development
Area Agency, Latur.

...PETITIONERS

-VERSUS-

- 1 The Secretary,
Osmanabad Zilla PWD Workers
Trade Union, Latur.
- 2 The Member,
Industrial Court, Solapur.
- 3 The Judge,
Labour Court, Latur.
- 4 Bhaskar Digambar Solunke,
Age : Major,
Near Gopal Krishna Deshpande's
House, Gopalnagar,
At Post Vasangaon, District Latur.

...RESPONDENTS

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AGP for Petitioner : Shri S.P.Sonpawale.

Advocate for Respondent 4 : Shri Chetan T. Jadhav h/f Shri K.M.Nagarkar.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd December, 2016

Oral Judgment :

1 Respondent Nos.2 and 3 are the Labour and Industrial Courts
and hence, stand deleted from the proceedings.

2 The Petitioner is aggrieved by the judgment of the Labour
Court dated 26.09.1989 by which Complaint (ULP) No.61/1986 was
partly allowed to the extent of Respondent No.4/ Employee and he is
granted reinstatement with continuity and full back wages.

3 The Petitioner is also aggrieved by the judgment dated
18.04.1996 by which Revision (ULP) No.33/1989 filed by the Petitioner
was dismissed.

4 I have heard the learned Advocates for the respective sides.

5 The learned Advocate for Respondent No.4/ Employee has
strenuously supported the impugned judgments. It is contended that
concurrent findings have been given by both the Courts below and
therefore, there should be no interference by this Court. It is also
submitted that the finding on facts by the Labour Court and sustained by
the Industrial Court cannot be easily set aside in the revisional jurisdiction
of this Court.

6 He has taken me through the impugned judgments to support his contention that it was proved that Respondent No.4/ Employee had worked from 05.10.1984 to 26.04.1986 and his daily wages were at the rate of Rs.24.95 at the time of his termination. It is further pointed out that the Respondent/ Employee had proved before the Labour Court that he had worked for 370 days in between October, 1984 to April, 1986. Based on the same, the Labour Court had granted reinstatement with continuity and full back wages.

7 Notwithstanding the strenuous submissions of the learned Advocate for Respondent No.4/ Employee, it cannot be ignored that this Court has stayed the impugned judgments in terms of prayer clause (D) and as such, Respondent No.4/ Employee is out of employment from 26.04.1986 which is a period of more than 30 years. He has put in about one and half year in employment as per his own contention.

8 The issue is, after having worked for one and half year in a State instrumentality on daily wages, whether it could entitle the Respondent/ Employee to reinstatement with continuity and full back wages, more so when he is out of employment for more than 30 years.

9 The Honourable Supreme Court has concluded in the

following four judgments that in such circumstances the compensation at the rate of Rs.30,000/- per year of service put in by the employee, would be more appropriate and suitable:-

- (a) *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal, [2013 LLR 1009];*
- (b) *Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh, [(2013) 5 SCC 136];*
- (c) *BSNL Vs. Man Singh, [(2012) 1 SCC 558]; and*
- (d) *Jagbir Singh Vs. Haryana State Agriculture Marketing Board, [(2009) 15 SCC 327].*

10 Considering the above, since concurrent findings are in favour of the Respondent/ Employee and he had worked for one and half year, I deem it proper to follow the ratio laid down by the Honourable Supreme Court in the above judgments.

11 In the light of the above, this Writ Petition is partly allowed only to the extent of modifying the judgment of the Labour Court with the direction to the Petitioner to pay Rs.50,000/- (Rupees Fifty Thousand) as a lump-sum compensation in lieu of reinstatement with continuity and back wages, to Respondent No.4/ Employee, namely, Bhaskar Digambar

Salunke (Solunke) within a period of TWELVE WEEKS from today, failing which the said amount shall attract interest at the rate of 3% per annum, which shall be payable from the date of the judgment of the Labour Court which is 26.09.1989 till it's actual payment. In such circumstances, the Senior Geologist, Ground Water Survey Development Area Agency, Latur shall be personally liable to pay the amount of interest for the delay and the same shall be paid from his salary account. The Respondent/Employee would, therefore, not be entitled to any other benefits.

12 Rule is made partly absolute in the above terms.

kps

(RAVINDRA V. GHUGE, J.)