

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4480 OF 1995

Executive Engineer,
Public Works, Sangamner,
Tq.Sangamner, Dist.Ahmednagar -- PETITIONER

VERSUS

Shri Balkrishna s/o Dagadu Rashinkar,
At Dhangarwadi, Post : Wakdi,
Tq.Shrirampur, Dist.Ahmednagar. -- RESPONDENT

Mr.S.P.Sonpawale, Advocate for the petitioner.
Mr.N.C.Garud, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 01/12/2016

ORAL JUDGMENT :

1. The petitioner is aggrieved by the judgment and award dated 04/05/1995 by which the Labour Court has allowed Ref.(IDA) No.30/1990 and granted reinstatement with continuity and full back wages from 06/07/1986.

2. This Court, by its order dated 18/09/1995 admitted the petition and stayed the impugned award.

3. I have considered the submissions of the learned AGP on behalf of the petitioner and Mr.Garud, learned Advocate on behalf of the respondent. With their assistance, I have gone through the record available.

4. After considering the submissions of the learned Advocates and upon perusing the record, I am astonished by the impugned award granting reinstatement to the respondent with continuity and full back wages from 06/07/1986 when he had worked for only 32 days in between 21/08/1979 and 17/10/1979.

5. The respondent had approached the Labour Court with a claim that he had worked from 1979 till 06/07/1986, continuously, without a break and had completed 240 days in employment. The record reveals that though the petitioner took a stand that the respondent has abandoned service, his name does not appear in any muster roll-cum-pay sheet or payment vouchers for 1980 till 1986.

6. Record reveals that the respondent had conducted an inspection of the attendance registers, muster roll-cum-pay sheet and payment vouchers from August 1979 till June 1986. Based on his inspection, the respondent/employee had filed two inspection reports

at Exhibit U-6 and Exhibit U-7 before the Labour Court clearing stating that besides working for 32 days from August 1979 to October 1979, his name does not appear in any attendance sheet or muster roll-cum-pay sheet. It is, however, stated that two daily wagers were in employment who were given work on daily wages after 1986.

7. In the above fact situation, I am surprised that the Labour Court has granted reinstatement in service with continuity and full back wages from 06/07/1986 notwithstanding the fact that the respondent/employee had failed to establish violation of Section 25-F in the backdrop of Section 25-B of the I.D.Act, 1947. In my view, Section 25-G and 25-H would have no application in the case of a daily wager who had worked for 32 days from August to October 1979 and had raised a claim in 1990 as if he had a continued right to employment and on the presumption that he should have been invited for work before engaging any daily wager in the following 11 years.

8. Learned Advocate for the respondent has placed reliance upon the oral judgment of this Court dated 20/10/2016 in WP No.690/1997 claiming that the employee in the said case belongs to the same village of the respondent/employee and that he had also

worked for short durations in 3 years and hence this Court had granted him compensation for 3 years. I do not find that the said judgment would be applicable to the case of this respondent for the reason that the respondent herein has worked for 32 days in 3 months whereas in the said referred case, he had worked in 3 different years before he alleged retrenchment.

9. The Hon'ble Apex Court in the judgments delivered in the case of Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub Division, Kota Vs. Mohanlal, 2013 LLR 1009, Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh, (2013) 5 SCC 136, BSNL Vs. Man Singh, (2012) 1 SCC 558, Jagbir Singh Vs. Haryana State Agriculture Marketing Board, (2009) 15 SCC 327 has held that an amount of compensation of Rs.30,000/- be granted to the employee who has put in 1 year in service. In the instant case, the record establishes that the respondent herein has worked for 3 months. Yet, since he is litigating in this Court, I am presuming that he has worked for 6 months and I am granting him compensation of 15,000/-

10. In the light of the above, this petition is allowed. The impugned award dated 04/05/1995 is quashed and set aside and Ref.(IDA)

No.30/1990 stands rejected. The petitioner shall pay an amount of Rs.15,000/- to the respondent within a period of 12 (twelve) weeks from today.

11. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)