

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4509 OF 1995

1. The Executive Engineer,
Kukdi Irrigation Project,
Division No.3, At and post
Shirur, Tq. Shirur, Dist. Pune.

2. The Sub Divisional Engineer,
Kukdi Left Canal,
Subdivision No.13,
Tq. Shrigonda, Dist. Ahmednagar.

3. The Superintending Engineer,
Kukdi Project Circle, Pune.

4. The Executive Engineer,
Kukdi Distribution and
Construction Division,
At Post Autewadi, Tq. Shrigonda,
District Ahmednagar.

5. The Sub-Divisional Officer,
Meena Canal, Sub Division No.4,
At and post Kuldharan,
Taluka Karjat, Dist. Ahmednagar.

..Petitioners

Versus

Shri Shahaji Rajaram Katore
Resident of Ukkadgaon
Taluka Shrigonda, District
Ahmednagar.

..Respondent

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Advocate for Petitioners : Shri B.B.Yenge
Advocate for Respondent : None present

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 20, 2016

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ORAL JUDGMENT:-

1. The petitioner has challenged the judgment dated 27.4.1995, delivered by the Industrial Court, Ahmednagar by which Complaint (ULP) No.10 of 1990, filed by the respondent was allowed and he was granted permanency with all consequential benefits from 3.1.1990.

2. This petition was admitted on 21.9.1995 and interim relief in terms of prayer clause “e” was granted, which reads as under:-

“(e) to stay the impugned order dated 27.4.1995 in Complaint (ULP) No.10 of 1990, by way of interim relief during the pendency and final hearing of the instant petition. ”

3. The Civil Application No.2617 of 1997 filed by the respondent / employee praying for vacating the interim relief was rejected by this Court on 2.7.1998.

4. This petition was to be heard finally on 11.5.2016. None appeared for the parties. On 30.6.2016 and 5.7.2016 too, none appeared for the parties. I have heard the learned Advocate for the petitioner.

5. The respondent had specifically averred in his complaint that he was working as a Wireman from 15.12.1988. The documents

placed on record by the respondent below Exhibit U-14/1 to 14/3 indicate that the respondent was working in between 10.12.1988 to 30.12.1989. The petitioner had taken a specific stand that he was working on contract basis as and when the work was available.

6. The complaint was filed on 3.1.1990. It thus indicates from the evidence that the respondent did not claim that he was working with the petitioner after 30.12.1989.

7. It is settled law that merely because a worker completes 240 days in continuous employment, especially in public employment and Government instrumentalities, permanency cannot be claimed only by virtue of completion of 240 days. The last drawn salary of the respondent is said to be Rs.600/- per month.

8. On account of the interim relief granted by this Court and the rejection of the Civil Application praying for vacating the interim relief, the impugned judgment has been stayed.

9. Considering the above, I do not find that the Industrial Court was right in granting permanency with benefits incidental and consequential thereto with effect from 3.1.1990. The impugned judgment is, therefore, perverse and deserves to be set aside.

10. The Honourable Apex Court has laid down the law that an employee, who has put in short spell of working, ought not to be granted benefits of service, in the following four judgments.:-

1. Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal [2013 LLR 1009],

2. Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh [(2013) 5 SCC 136],

3. BSNL Vs. Man Singh [(2012) 1 SCC 558] and

4. Jagbir Singh Vs. Haryana State Agriculture Marketing Board [(2009) 15 SCC 327].

11. The Apex Court has therefore, concluded that compensation for each year of service could be granted rather than reinstating an employee in service.

12. In the light of the above, this petition is partly allowed. The impugned judgment is quashed and set aside and Complaint (ULP) No.10 of 1990 stands dismissed. The petitioner shall pay a lump sum compensation to the respondent for an amount of Rs.30,000/- within twelve weeks from today.

13. Needless to state, in the event, the respondent has been continued in service by the petitioner from January 1990 and if he is still in employment, this order shall, therefore, not take effect and the respondent shall then be entitled for all service benefits as will

be available in law.

14. Rule is made partly absolute in the above terms.

15. No costs.

(RAVINDRA V. GHUGE, J.)

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akl/d