

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4297 OF 1995

The Chief Officer,
Nagar Parishad, Ambajogai,
Dist. Beed

-- PETITIONER

VERSUS

Narayan Dhondiba Jadhav,
Age-Major, Occu-Business,
R/o C/o Trade Union Center,
Mangalwar Peth, Ambajogai,
Dist. Beed

-- RESPONDENT

WITH
WRIT PETITION NO.5096 OF 1995

Narayan S/o Dhondiba Jadhav,
Age-34 years, Occu-Nil,
R/o Guruwar Peth, Ambajogai,
Tal.Ambajogai, Dist. Beed

-- PETITIONER

VERSUS

Nagar Parishad Ambajogai,
Taluka Ambajogai, Dist. Beed,
Through its Chief Officer

-- RESPONDENT

Mr.V.V.Bhavthankar, Advocate for the petitioner/employer.
Mr.A.N.Sabnis h/f Mr.S.V.Kulkarni, Advocate for the
respondent/employee.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 11/08/2016

ORAL JUDGMENT :

1. The first petition is filed by the Nagar Parishad, Ambajogai,
which is the employer and the respondent is the employee. The

second petition is filed by the same employee against the same Nagar Parishad. For the sake of brevity, the parties would be referred to as the “employer” and the “employee”.

2. Both these petitions were admitted by this Court. It is jointly stated that though this Court did not grant any interim relief to the employer and the impugned award dated 27/09/1994 delivered by the Labour Court, has not been stayed, the employee had been kept out of employment.

3. I have considered the strenuous submissions of Mr.Bhavthankar, learned Advocate for the employer and Mr.Sabnis alongwith Mr.S.V.Kulkarni, learned Advocates for the employee.

4. There is no dispute that the employee had worked from 01/08/1980 and was orally disengaged on 30/11/1981, thereby working for about 16 months with the employer. He was a “Safai Kamgar” and his monthly salary at the time of his disengagement was Rs.200/-.

5. The employee had raised an industrial dispute after 8 years of his disengagement which was referred to the Labour Court as Ref.

(IDA) No.17/1989. By the impugned award delivered on 27/09/1994, the employee was granted reinstatement on time scale without back wages, but with continuity from 01/02/1989 when he has raised an industrial dispute.

6. Despite the strenuous submissions of Mr.Sabnis, the impugned award deserves to be interfered with on 2 grounds. Firstly, that the Labour Court could have only reinstated the employee in the position in which he was disengaged. Benefits of permanency in the form of time scale could not have been ordered by the Labour Court since this issue falls beyond the jurisdiction of the Labour Court under Section 2-A and 11-A of the Industrial Disputes Act, 1947.

7. Secondly, the impugned award deserves to be set aside even on the ground of the employee having worked for only 16 months and having been granted reinstatement despite being out of employment for 14 years at the given time. As of today, the employee is out of employment for the past 34 years and 9 months.

8. The Hon'ble Supreme Court has concluded in the following four cases that where a short tenure of employment is followed by a long spell of unemployment, compensation @ Rs.30,000/- per year of

service put in, would be appropriate and practicable in lieu of reinstatement with continuity and back wages :-

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

9. As such, having worked for about 1½ years with the employer and as he is out of employment for the past about 35 years, I deem it proper to modify the impugned award and grant compensation of Rs.45,000/- to the employee in lieu of reinstatement with continuity, as has been directed by the Labour Court.

10. As such, the petition filed by the employer is partly allowed. The impugned award dated 27/09/1994 is modified and is replaced by a direction to the employer to pay an amount of Rs.45,000/- to the employee within a period of 12 (twelve) weeks from today as *lump sum* compensation, failing which, it shall attract interest @ 6% p.a. from the date of the award.

11. Rule is made partly absolute in the above terms. Consequentially, the second petition filed by the employee is devoid of merit and is, therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)