

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

WRIT PETITION NO.5488 OF 1995

The Range forest Officer,
Mohmandli, Raver,
Tq.Raver, Dist. Jalgaon.

...PETITIONER

VERSUS

1. Shri Bhila s/o Sura Chavan,
Age Major, occu: Service,
R/o Jansi, Post.Kusumba,
Tq. Raver, Dist. Jalgaon.
2. The Hon'ble Labour Judge,
Labour Court, Jalgaon.

...RESPONDENTS

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Mr. S.W.Mundhe, AGP for the petitioner.
Shri S.R.Barlinge, Advocate, for respondent no.1.
Respondent no.2 served.

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CORAM: P.R.BORA, J.

DATE : June 17th, 2016

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ORAL JUDGMENT:

1. The order passed by the Labour Court, Jalgaon,
in Reference (IDA) No.22/1991 is challenged in the

present petition by the Range Forest Officer, Raver, district Jalgaon. The aforesaid Reference was made under clause (c) of sub-section (1) of Section 10 read with sub-section (5) of Section 12 of the Industrial Disputes Act, 1947. The record reveals that though the present petitioner was served, none appeared for the petitioner and after having noticed the continuous absence of the present petitioner, the respondent workman was permitted to lead the evidence on affidavit. The impugned order shows that relying on the averments in the affidavit filed on behalf of the complainant, the learned Labour Court directed reinstatement of the respondent Workman with continuity of service and with backwages. The said order is under challenge in the present writ petition.

2. Learned A.G.P. submitted that no due opportunity was given to the petitioner Department so as to put forth its case before the Court in the aforesaid Reference Application and undue haste was made by the Court below in allowing the Reference Application and directing reinstatement of the respondent workman and that too with full back-wages. Learned A.G.P. further

submitted that no reasoning is provided in the impugned order by the Labour Court as to whether the workman concerned has worked for continuous period, as has been alleged by him, with the department during the period preceding to his termination. Learned A.G.P. further submitted that the respondent workman was working under Planned Scheme and as such, he was not entitled for any relief as was claimed by him. It is brought to my notice that the order so passed by the Labour Court, so far as it relates to reinstatement is concerned, the same has been complied with and the respondent workman was reinstated and regular salary has been paid to him.

3. In view of the fact that now the period of more than 21 years has elapsed after filing of the petition, it does not appear to me that, the finding recorded by the Labour Court, so far as the relief of reinstatement is concerned, and further taking into account the fact that the said order has been complied with by the petitioner department, any purpose will be served now in upsetting the said order even if the petitioner department succeeds in proving that he was not entitled for the said relief. In

so far as the relief of back-wages is concerned, admittedly, since the said respondent workman has not worked during the said period, and further taking into consideration the fact that the impugned order does not disclose the reasons for granting full backwages, it appears to me that the order so passed, if modified, and the relief of back-wages so granted is quashed and set aside, it would meet the ends of justice. Hence, the following order:

ORDER

- 1) The writ petition is partly allowed.
- 2) The impugned order, so far as it relates to back-wages, stands quashed and set aside. Rule is accordingly made absolute in above terms.

(P.R.BORA)
JUDGE

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AGP/5488-95wp