

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2180 OF 1996

Nanaji Kashinath Savant,
working as Muster Assistant,
Minor Irrigation, Construction
Division, Dhule and residing
at Professor Colony, Malegaon
Road, Deopur, Dhule.

..Petitioner

Versus

1. The State of Maharashtra
Through the Secretary,
Irrigation Department,
Mantralaya, Mumbai.

2. The Executive Engineer,
Minor Irrigation, Dhule.

..Respondents.

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Advocate for Petitioner : Petitioner Served.
AGP for Respondents 1 & 2 : Shri P.N.Kutti

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 22, 2016

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ORAL JUDGMENT:-

1. The petitioner challenges the judgment of the Labour Court dated 22.9.1994, by which Complaint (ULP) No.308 of 1991, filed by the petitioner challenging his termination dated 11.12.1991 has been dismissed.

2. This Court admitted this petition by order dated 6.2.1995 and granted interim relief in terms of prayer clause (d) which reads as under:-

“(d) that pending the hearing and final disposal of this petition, this Honourable Court be pleased to stay execution, operation and/or implementation of the judgment and order dated 22.9.1994, passed by the Judge, Labour Court, Dhule in Complaint (ULP) No.308 of 1991”

3. Since the petitioner has been served by the transfer notice of this Court and no appearance has been caused, I have considered this petition myself, rather than dismissing the petition in default.

4. The petitioner claimed to be working as a Muster Assistant from 8.12.1988 and was terminated on 11.12.1991. He approached the Labour Court by filing his ULP Complaint. The respondent herein, filed its Written Statement at Exhibit C-2 and contended that the petitioner was being paid from his salary from the Employment Guarantee Scheme (“EGS”) funds. He was working on the EGS. His service was terminated since the EGS work was over.

5. The complaint of the petitioner was earlier allowed by judgment dated 14.1.1992, delivered by the Labour Court. The Industrial Court considered the Revision Petition and directed the Labour Court to reconsider the Complaint since it was specifically averred that the original complainant cannot file a complaint for claiming reinstatement, when he was working on EGS.

6. Pursuant to the above, by the impugned judgment, the petitioner's complaint has been dismissed. There is no dispute that the petitioner has not exhausted the statutory remedy of filing a Revision Petition under Section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act"). I am, however, not considering the said aspect since this Court has admitted the petition and granted interim relief in terms of prayer clause (d).

7. The respondents have filed an affidavit in reply, clearing setting forth in paragraph Nos.1 and 2 that the petitioner was working on EGS and hence could not have claimed reinstatement, much less, continuity and full backwages.

8. This Court has granted interim relief to the petitioner in terms of prayer clause (d), by which, the impugned judgment was stayed. However, prayer clause (e) was not granted, which reads as under:-

“(e) that pending the hearing and final disposal of this petition, direct the respondents to allow the petitioner to work as Muster Assistant in the office of the respondent's Deputy Engineer, Minor Irrigation, Sub-Division, Dhule.”

9. Since prayer clause (e) was not granted, there was no

direction to the respondent to allow the petitioner to work as a Muster Assistant.

10. The Labour Court had arrived at a finding on facts that the petitioner was working on EGS. This Court has concluded that an employee working in EGS cannot file a ULP Complaint seeking reinstatement or continued employment.

11. In the light of the above, I do not find any merit in this petition. Same is, therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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