

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 669 OF 1997

M/s Kinetic Engineering Co. Ltd.  
Nagar Dhond Road, Ahmednagar. ..Petitioner

Versus

1. Shri Ajay Irrappa Basapure  
House No.1833, Subhedar Galli,  
Ahmednagar.

2. The Presiding officer,  
First Labour Court, Ahmednagar. ..Respondents

...  
Advocate for Petitioner : Shri V.S.Bedre  
Advocate for Respondent 1 : Shri P.V.Barde  
Respondent 2 : Deleted.

...

CORAM : RAVINDRA V. GHUGE, J.  
Dated: October 13, 2016

...

ORAL JUDGMENT :-

1. The petitioner is aggrieved by the award dated 28.6.1996, delivered by the Labour Court, Ahmednagar by which, Reference (IDA) No.87 of 1988, filed by the respondent has been allowed and he has been granted reinstatement with continuity and 20% backwages.

2. Respondent No.2 in this matter being the Presiding Officer of the Labour Court, stands deleted.

3. I have heard the learned Advocates for the petitioner and the

respondent at length.

4. There is no dispute that the respondent was engaged as a temporary for the period 14.10.1984 to 13.4.1985 and 21.4.1985 to 22.11.1985 by the Ahmednagar Unit of the petitioner. The Chinchwad Unit of the petitioner engaged him from 22.1.1986 till 31.7.1986 and 8.4.1987 till 7.10.1987. He has thus worked for a total period of 25 months in between October 1984 till October 1987.

5. It is not in dispute that the respondent is not working with the petitioner since 8.10.1987 over a period of almost 29 years. It is also not in dispute that his last drawn wages were at the rate of Rs.650/- per month.

6. By an order dated 12.6.1997, this Court stayed the impugned award and granted liberty to the petitioner to consider offering work to the respondent.

7. The Honourable Apex Court in the following four cases has settled the law that where a small tenure of employment has been put in by the employee, followed by a long spell of unemployment, grant of compensation instead of reinstatement and continuity and backwages would be appropriate:-

*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].*

7. In the instant case the respondent has worked under four appointment orders as a temporary employee over a period of three years. The petitioner is a private company and is not a 'State instrumentality'. Though the impugned award has been stayed by this Court, the respondent had not been granted Section 17B benefits under the Industrial Disputes Act, 1947. Considering this aspect that he would have been entitled to Section 17B benefits and that the petitioner is a private entity, I am enhancing the amount of compensation from Rs.30,000/- per year to Rs.40,000/- per year, as the view taken by the Honourable Supreme Court was in matters of 'State instrumentalities'.

8. In the light of the above, this petition is partly allowed. The impugned award dated 28.6.1996 in Reference (IDA) No.87 of 1998 is modified and the respondent is granted compensation of an amount

of Rs.1,20,000/- as quantified compensation and he would not be entitled for any other benefits in relation to his employment and non-employment. The said amount shall be paid to the respondent / employee within a period of 12 weeks from today, failing which the said amount would carry interest at the rate of 6% per annum from the date of the award.

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

( RAVINDRA V. GHUGE, J. )

...

akl/d