

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

WRIT PETITION NO. 652 OF 1997

- 1 The State of Maharashtra.
Through the Superintending Engineer,
Nasik Pathbandhare Prkalpa Mandal-2,
Nasik.
- 2 The Executive Engineer,
Narmada Vikas Vibhag,
Nandurbar, Dist.Dhule.

...PETITIONERS

-VERSUS-

Parmanand Deoram Khalane,
Age : Major, Occupation : Service,
R/o Narmada Vikas Vibhag,
Nandurbar, District Dhule.

...RESPONDENT

WITH
CIVIL APPLICATION NO.5100 OF 2002
IN WP/652/1997

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
PARMANAND DEORAM KHALANE

...
AGP for Petitioners/ State : Shri P.N.Kutti.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 06th October, 2016

Oral Judgment :

1 The Petitioner/ State of Maharashtra is aggrieved by the award dated 20.04.1995 by which Application (IDA) No.4/1994 has been allowed by the Labour Court and the Petitioner is directed to pay Rs.21,030/- as difference of wages with interest at the rate of 15% per annum till actual payment.

2 This Court, while admitting the petition, did not grant interim relief to the Petitioner.

3 Despite service of court notice at the first instance and then as per the order dated 05.08.2010, the Respondent has not chosen to cause any appearance either in person or through an Advocate.

4 The learned AGP has strenuously criticized the impugned award. He submits that merely because the Respondent/ Watchman performed his duties during night hours, it could not be said that he had worked for 15 hours. It is humanly impossible for any watchman to work from 05:00 am to 08:00 am on the next day, every day and year. He submits that the Respondent was performing 07 hours work. The claim put forth by the Respondent for overtime wages was disputed by filing the Written Statement at Exhibit C-2. It was denied that he was working from 05:00 am on one day to 08:00 am of the next day. He draws my attention

to the grounds raised in the petition. He, therefore, prays that the Petition be allowed and the impugned award be quashed and set aside.

5 I have considered the submissions of the learned AGP and have gone through the petition paper book.

6 This Court declined interim relief to the Petitioner as, prima facie, this Court did not find any error in the impugned award. The Government Resolutions dated 19.09.1983 and 11.02.1994 were placed on record at Exhibits U/6 and U/7, respectively. The letter dated 23.06.1992 is also on record at Exhibit U/8 indicating that his (Respondent) working hours were in between 06:00 pm to 08:00 am.. His request applications were on record at Exhibits U/9, U/10 and U/11 praying for overtime wages for having worked beyond his duty hours.

7 The Government Resolutions indicate that the Watchman shall work between 10:00 pm to 06:00 am i.e. for about eight hours. It was established before the Labour Court that the Respondent was working from 06:00 pm to 08:00 am. Based on oral and documentary evidence and relying on the Government Resolutions/ Notifications, the Labour Court calculated the extra wages that were required to be paid and arrived at a conclusion that the Respondent would be entitled for Rs.21,030/-.

8 In the light of the above, I do not find any reason to cause any interference in the finding on facts. This Writ Petition being devoid of merit is, therefore, dismissed. Rule is discharged.

9 This Court by order dated 30.08.2002 passed on Civil Application No.5100/2002 recorded the statement of the Petitioner that an amount of Rs.22,739/- has been deposited before the Labour Court. By the said order, the disbursement of the amount was stayed by staying the impugned award.

10 In the light of this judgment, in the event the said amount deposited before the Labour Court has not been withdrawn by the Respondent/ Employee, he would be at liberty to withdraw the same along with accrued interest, by making an application for withdrawal duly identified by an Advocate along with his latest photograph and a copy of the Election Commission's Voters Identity Card.

11 The pending Civil Application is, therefore, disposed of.