

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2379 OF 1997

Chief Executive Officer,
Zilla Parishad, Ahmednagar.

..Petitioner

Versus

1.Keshav Trimbak Avhad
R/o Jambhali, Post Mauj Devdhe,
Tq. Pathardi, Dist. Ahmednagar.

2. State of Maharashtra.

..Respondents

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Advocate for Petitioner : Shri S.T.Shelke
Advocate for Respondent 1 : Shri K.D.Bade Patil
AGP for Respondent 2 : Shri N.T.Bhagat

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CORAM : RAVINDRA V. GHUGE, J.

Dated : December 1, 2016

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ORAL JUDGMENT:-

1. The petitioner is aggrieved by the impugned award dated 21.6.1996, by which, though the Labour Court concluded that there is no illegal termination, it has directed the petitioner to give work to the respondent / employee forthwith.

2. While admitting this petition on 7.7.1997, this Court stayed the impugned award by way of interim relief.

3. I have heard Shri Shelke, learned Advocate for the petitioner and the learned AGP on behalf of respondent No.2. Shri Bade Patil,

learned Advocate appearing on behalf of the respondent No.1 / workman has strenuously defended the impugned award.

4. I find that the petitioner had placed a chart of number of days worked before the Labour Court in the backdrop of the employee having claimed to be in employment from 6.9.1984 till 31.1.1986. The chart on which reliance has been placed by the litigating sides indicates that the respondent had worked for 200 days in the 12 calendar months immediately preceding the date of reference i.e. his date of removal, which is 1.2.1986. The chart indicates that even weekly holidays were included in the number of days worked. As such, the basic requirement of Section 25B of the Industrial Disputes Act was not fulfilled by the respondent / employee.

5. The Labour Court also considered the aspect that the respondent was working on Employment Guarantee Scheme. However, it came to a conclusion that merely because the Tahsildar recommended his service for EGS work and the implementing agency was the petitioner, the respondent cannot be held to be a daily wager on EGS.

6. I do not find this conclusion to be sustainable. If a person has been deployed on EGS by the Tahsildar and accordingly work is made available to him, the Labour Court cannot conclude that he was not

working on EGS unless the said conclusion is supported with a strong evidence. Based on the said erroneous conclusion, the Labour Court directed the petitioner to give work to the respondent.

7. In the light of the above, the impugned award is quashed and set aside and Reference (IDA) No.69 of 1991 is rejected. This petition is, therefore, allowed.

8. However, since the Labour Court granted Rs.1,000/- as costs of litigation and since the respondent / employee is before this Court for the last about 19 years, in the peculiar facts of this case, I am directing the petitioner to pay an amount of Rs.5,000/-, purely on sympathetic ground, to the respondent / employee. The said amount shall be paid within a period of eight weeks from today.

9. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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