

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2637 OF 1997

Zilla Parishad, Beed,
Through its
Chief Executive Officer

-- PETITIONER

VERSUS

1. The State of Maharashtra
Copy to be served on the
Government Pleader,
High Court of Judicature
of Bombay, Bench at Aurangabad,

2. Mohan s/o Ganpat Jawale,
claimed to be Sweeper
C/o Trade Union Centre,
Bashirganj, Beed,
Dist. Beed

-- RESPONDENTS

Mr.H.K.Munde, Advocate for the petitioner.
Mrs.Sangmitra Wadmare, Advocate for respondent No.2.
Petition is dismissed against respondent No.1.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 02/12/2016

ORAL JUDGMENT :

1. The petitioner is aggrieved by the ex-parte award dated 16/05/1996 by which the Labour Court has allowed Ref.(IDA) No.54/1988 and granted reinstatement with continuity and full back wages to the respondent from 01/09/1986.

2. This Court has admitted this petition on 04/12/1997 and stayed the impugned award.

3. This matter was adjourned on 01/12/2016 only to enable the litigating sides to work out this matter. Even today, none appears for the respondent/employee.

4. I have considered the submissions of the learned Advocate for the petitioner.

5. The respondent had approached the Labour Court claiming that he had joined the temporary employment of the petitioner on 08/06/1984 and was orally terminated on 01/09/1986. The impugned award indicates that the Labour Court has accepted the contentions of the respondent in a single sentence only because the petitioner did not appear and did not contest the matter. The Labour Court, therefore, concluded that, "*hence, I do not have hesitation to pass award in favour of the second party workman as per his statement of claim in toto.*"

6. It is settled law that merely because a proceeding is being conducted ex-parte, the contention of the claimant/plaintiff cannot

be accepted without oral and documentary evidence and without assigning reasons. The impugned award, therefore, deserves to be quashed and set aside.

7. It is pointed out from the pleadings in the memo of the petition in paragraph No.3 as well as on the basis of the communication issued by the Divisional Controller of M.S.R.T.C. addressed to the C.E.O. of the petitioner dated 03/10/1996 that the respondent joined the M.S.R.T.C. as a driver on 04/10/1989. He has continued in service thereafter.

8. It is, therefore, apparent that this aspect was suppressed by the respondent from the Labour Court despite the fact that the impugned award was delivered on 16/05/1996 when the respondent was in the employment of the M.S.R.T.C. This aspect was not pointed out by the petitioner before the Labour Court since it did not appear in the matter. However, that would not absolve the respondent from his duty in stating the facts and refraining from suppressing a material information. The Hon'ble Apex Court, in these circumstances, has held in the matter of Kishore Samrite Vs. State of U.P. [(2013) 2 SCC 398] and in the matter of Bhaskar Laxman Jadhav and others Vs.Karamveer Kakasaheb Wagh

Education Society and others, AIR 2013 SC 523 that an employee should be deprived of relief for suppression of facts.

9. In the light of the above, this petition is allowed. The impugned award is quashed and set aside and Ref.(IDA) No.54/1988 stands rejected. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)