

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2420 OF 1997

1.State of Maharashtra

2. The Executive Engineer,
EGS, PWD Division, Ahmednagar. ..Petitioners

Versus

Rajendra Murlidhar Sogane
Age 28 years, Occ. Nil.,
R/o Parner, Shivaji Road,
Ahmednagar. ..Respondents

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AGP for Petitioners : Shri S.N.Kendre
Advocate for Respondent : Shri P.V.Barde
h/f Shri T.K.Prabhakaran
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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 judgment and award dated 21.9.1995, by which, Reference (IDA) No.73 of 1991 has been allowed and the respondent has been granted reinstatement as a Chaukidar with continuity in service and backwages from 1.6.1991, at the rate of Rs. 6 per day.

2. While admitting this petition on 28.8.1997, this Court stayed the direction of continuity of service and payment of backwages. However, it is informed by Shri Barde that the respondent was,

thereafter, intermittently working on other Employment Guarantee Schemes during the pendency of this petition.

3. The learned AGP has strenuously submitted that the impugned award deserves to be quashed and set aside for two reasons. Firstly, the respondent was not working continuously between 1.1.1982 to 31.12.1983 and secondly, he was working on EGS.

4. Shri Barde has vehemently submitted that this petition deserves to be dismissed for the reason that the respondent has proved continuous service and had also proved he was working as a watchman on the work site of the petitioner and not under the EGS.

5. I have considered the submissions of the learned Advocates and have gone through the grounds (8) raised in the petition and the record available.

6. The Labour Court has specifically concluded that the respondent had completed 240 days in each calendar year on the basis of the record available before it. In so far as working on EGS is concerned, the Labour Court concluded that there is no post of a watchman under the EGS and that watchmen are appointed on the sites or establishments of the petitioner.

7. It, however, cannot be ignored that the respondent has worked for two years from 1.1.1982 to 31.12.1983, had raised an industrial dispute in 1991 and is out of employment for the past 33 years.

8. In similar circumstances, the Honourable Apex Court has concluded that compensation of Rs.30,000/- in lieu of reinstatement with continuity and backwages for each year of service, would be practical and commensurate, in the following four judgments:-

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].

9. In the light of the above, this petition is partly allowed. The impugned award dated 21.9.1995 is modified by directing the petitioner to pay quantified compensation of Rs.60,000/- to the respondent / employee in lieu of reinstatement, continuity and other benefits within a period of 12 weeks from today, failing which,

interest at the rate of 5% per annum on the compensation amount shall be paid from the date of the impugned award.

10. Needless to state, the interest shall then be recovered from the salary of the Executive Engineer, EGS, Public Works Department, Sub-Division Parner and the said interest shall not be paid by the State exchequer.

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

(RAVINDRA V. GHUGE, J.)

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