

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2082 OF 1997

Zilla Parishad, Ahmednagar
through its Chief Executive Officer. ..Petitioner

Versus

Shri Dinkar Sakharam Auti,
R/o Wadegavan, Tq. Parner,
District Ahmednagar. ..Respondent

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Advocate for Petitioner : Shri Shelke S.T.
Advocate for Respondent : Shri Barde P.V.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: December 01, 2016

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ORAL JUDGMENT:-

1. The petitioner is aggrieved by the judgment and award dated 25.7.1996 by which, Reference (IDA) No.39 of 1991 filed by the respondent / employee was allowed and he was granted reinstatement with continuity and 50% backwages.
2. While admitting this petition on 19.6.1997, the impugned award was stayed.
3. Shri Shelke, learned Advocate for the petitioner has strenuously criticized the impugned award. He submits that the respondent had never worked continuously for 240 days in any

calendar year. He was a daily wager. The material available before the Labour Court would indicate that he had not continuously worked for 240 days. He further submits that having worked intermittently over a period of about 2 years and 8 months, would not entitle the respondent to reinstatement with continuity and 50% backwages as is granted by the Labour Court. He, therefore, submits that the impugned award deserves to be quashed and set aside.

4. Shri Barde, learned Advocate appearing on behalf of the respondent / employee has supported the impugned award. He submits that there was sufficient evidence before the Labour Court to arrive at a finding that the respondent had worked for more than 240 days in continuous employment in each calendar year. He, however, submits that from 1988 onwards, the respondent is not in employment for the past about 28 years.

5. He, relies upon the judgment of the Honourable Apex Court in the matter of Bhavnagar Municipal Corporation Vs. Jadeja Govubha Chhanubha [AIR 2015 SC 609], to contend that an employee who had worked for 18 months has been granted Rs.2,50,000/- as compensation.

6. I had considered the submissions of the learned Advocates and have perused the record available.

7. It is apparent from the record that a chart of number of days worked was produced by the petitioner / management vide Exhibit C-15. In the whole year of 1986, the respondent had worked for 279 days. In 1987, he had worked for 262 days and from 1.1.1988 till 30.9.1988, he had put in 223 days. As such, the legal requirement of Section 25B of the Industrial Disputes Act that an employee must complete 240 days in continuous employment in one calendar year preceding the date of reference, which is the date of termination, was fulfilled by the respondent. Hence, the conclusions arrived at by the Labour Court to this extent cannot be faulted as reliance was placed upon the chart Exhibit C-15, produced by the petitioner / establishment.

8. It cannot be ignored that the respondent had worked over a period of 2 years and 8 months and is out of employment for about 28 years. The Honourable Apex Court, in the following four judgments, has concluded that compensation at the rate of Rs.30,000/- per year of service put in by an employee would be an appropriate relief, when a short tenure of employment is followed by a long duration of unemployment:-

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. This Court has consistently followed the ratio laid down by the Honourable Supreme Court in the afore mentioned four cases.

10. In the light of the above, this petition is partly allowed. The impugned award is modified with the direction to the petitioner to pay an amount of Rs.90,000/- to the respondent within a period of three months from today, failing which interest at the rate of 5% per cent per annum would be liable to be paid on the said amount from the date of the award of the Labour Court. The said interest shall, therefore, be paid from the salary of the Chief Executive Officer of the petitioner and not from the coffers of the Zilla Parishad or the State exchequer.

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

(RAVINDRA V. GHUGE, J.)

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