

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

WRIT PETITION NO. 744 OF 1997

1 The State of Maharashtra.

2 The Executive Engineer,
Public Works Department,
Ahmednagar.

...PETITIONER

-VERSUS-

Telbaji Tatyaba Ghule,
R/o Shekte, Post Bhutetaki,
Tq.Pathardi, District Ahmednagar.

...RESPONDENT

WITH
CIVIL APPLICATION NO.3593 OF 1998
IN WP/744/1997

...
AGP for Petitioner : Shri PN.Kutti.
Advocate for Respondent : Shri A.S.Shelke.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 20th October, 2016

Oral Judgment :

1 The Petitioners are aggrieved by the judgment and award dated 04.06.1996 delivered by the Labour Court in Reference (IDA) No.57/1988 by which the Respondent was granted reinstatement on the same terms and conditions as a temporary employee and his name was to

be entered in the seniority list from the date of the award and he was entitled to the benefits as per the Rules.

2 I have considered the submissions of the learned Advocates for the respective sides. With their assistance, I have gone through the record available.

3 I find that the Respondent had claimed to be in employment on daily wages with the Petitioner from 13.08.1984 till 18.08.1986. He claimed that he was entitled for the benefits of the Kalelkar Settlement. However, owing to the zero budget situation in the State and on account of lack of funds, he was disengaged without compliance of Section 25-G and 25-G of the Industrial Disputes Act, 1947 and in violation of Rule 81 of the Industrial Disputes (Bombay) Rules, 1957. He has promptly raised an industrial dispute and has appeared before the Labour Court in Reference (IDA) No.57/1988. The Labour Court concluded on the basis of the available material that he was continuously working and hence, he deserved to be brought back to the position from which he was terminated. It is not in dispute that the Labour Court has granted him reinstatement on the same terms and conditions as a temporary employee and the Petitioner was directed to take his name in the seniority list and provide him work.

4 The learned AGP has drawn my attention to the affidavit in reply dated 27.07.1998 that was filed in Civil Application No.3593/1998 vide which the Respondent had claimed benefits under Section 17-B of the Industrial Disputes Act, 1947. The Petitioner has specifically stated in paragraph 4 of the said affidavit in reply that the Respondent/ Employee had completed 58 years of age which is the age of retirement on the date of the award and he was 61 years old on 27.07.1998. There is nothing to indicate that the Respondent disputed this position, inasmuch as the Respondent has not questioned the award by which he was granted temporary work.

5 Be that as it may, what has been established before the Labour Court is that the Respondent was working for two years upto August, 1986. It is evident that he is not in employment in the last 30 years and considering the affidavit in reply filed by the Petitioner on 27.07.1998, the Respondent had reached the age of superannuation in the year when the award was delivered.

6 In the light of the above, I deem it appropriate to rely upon the ratio laid down by the Honourable Supreme Court in the following four cases:-

- (a) *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal, [2013 LLR 1009];*
- (b) *Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh, [(2013) 5 SCC 136];*
- (c) *BSNL Vs. Man Singh, [(2012) 1 SCC 558]; and*
- (d) *Jagbir Singh Vs. Haryana State Agriculture Marketing Board, [(2009) 15 SCC 327].*

7 The Honourable Supreme Court has held that where an employee has put in a short tenure of service which is followed by a long period of unemployment, compensation at the rate of Rs.30,000/- per year of service put in by the employee can be granted.

8 In the light of the above, this Writ Petition is partly allowed. The impugned award stands set aside and is replaced by the direction to the Petitioner to pay an amount of Rs.60,000/- (Rupees Sixty Thousand) to the Respondent within a period of SIXTEEN (16) WEEKS from today.

9 In the event, the Petitioner causes delay in payment of the amount as directed above, the Respondent would be entitled to simple interest at the rate of 6% per annum on the amount of Rs.60,000/- from

the date of the award till it's actual payment and the amount of such interest will then be recovered from the salaries of the Executive Engineer, Public Works Department, Ahmednagar. Needless to state, the amount of interest shall not be paid from the State exchequer.

10 Rule is made partly absolute in the above terms.

11 The pending Civil Application, if any, does not survive and the same stands disposed of.

kps

(RAVINDRA V. GHUGE, J.)