

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

WRIT PETITION NO. 2162 OF 1997

M/s Kinetic Engineering Limited,
Nagar Dhond Road, Ahmednagar,
District Ahmednagar.

...PETITIONER

-VERSUS-

1 Shri Pramod Gangadhar Mohite,
H.No.69, Bhagaskar Galli,
Bhingar, Ahmednagar.

2 The Presiding Officer,
Seth Suratsingh Bhavan,
Savedi Road, Ahmednagar.

...RESPONDENT

...

Advocate for Petitioner : Shri V.S.Bedre.
Advocate for Respondent 1 : Shri Barde Parag Vijay.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 08th December, 2016

Oral Judgment :

1 Respondent No.2 being the Presiding Officer, stands deleted.

2 The Petitioner is aggrieved by the judgment and award dated 26.02.1997 by which Reference (IDA) No.11/1989 filed by the Respondent/ Employee has been allowed and he has been granted

reinstatement with continuity of service. The back wages have been denied as he was gainfully employed during the pendency of the reference proceedings.

3 I have considered the strenuous submissions of Shri Bedre and Shri Barde, learned Advocates for the respective litigating sides.

4 There is no dispute about the following aspects:-

- (a) The Respondent was appointed for two months on 22.03.1981 upto 25.05.1981 as an Assistant Fitter.
- (b) He was then appointed for two months from 22.05.1981 till 27.07.1981 as an Assistant Fitter.
- (c) He was then appointed as a Job Trainee from 10.09.1981 till 10.01.1983.
- (d) He was disengaged on 10.01.1983.
- (e) He raised an industrial dispute on 31.07.1987 and the matter was referred to the Labour Court as Reference (IDA) No.87/1988.
- (f) Upon being transferred to Ahmednagar, it was renumbered as Reference (IDA) No.11/1989.
- (g) This Court while admitting the petition on 03.10.1997 has stayed the impugned award as interim relief, granted in terms

of prayer clause (C) earlier on 30.06.1997, was directed to be continued.

5 I have considered the submissions of the learned Advocates and in the light of the undisputed factors as above, it needs to be noted that the Respondent was working roughly over a period of three years with the Petitioner. He is out of employment from 10.01.1983 in these last 33 years. His last drawn wages in 1983 were at the rate of Rs.150/- per month. As such, even if Section 17-B benefits are to be extended to the Respondent/ Employee from the date of admission of this petition till this date, the said amount would be roughly Rs.35,000/-.

6 In a similar matter in between the same Petitioner Company *M/s Kinetic Engineering Co. Ltd. vs. Ajay Irrappa Basapure* in Writ Petition No.669/1997, this Court has delivered its judgment dated 13.10.2016 whereby it was observed in paragraphs 7 to 9 as under:-

"7. *The Honourable Apex Court in the following four cases has settled the law that where a small tenure of employment has been put in by the employee, followed by a long spell of unemployment, grant of compensation instead of reinstatement and continuity and backwages would be appropriate:-*

- 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].

8. *In the instant case the respondent has worked under four appointment orders as a temporary employee over a period of three years. The petitioner is a private company and is not a 'State instrumentality'. Though the impugned award has been stayed by this Court, the respondent had not been granted Section 17B benefits under the Industrial Disputes Act, 1947. Considering this aspect that he would have been entitled to Section 17B benefits and that the petitioner is a private entity, I am enhancing the amount of compensation from Rs.30,000/- per year to Rs.40,000/- per year, as the view taken by the Honourable Supreme Court was in matters of 'State instrumentalities'.*
9. *In the light of the above, this petition is partly allowed. The impugned award dated 28.6.1996 in Reference (IDA) No.87 of 1998 is modified and the respondent is granted compensation of an amount of Rs.1,20,000/- as quantified compensation and he would not be entitled for any other benefits in relation to his employment and non-employment. The said amount shall be paid to the respondent / employee within a period of 12 weeks from today, failing which the said amount would carry interest at the rate of 6% per annum from the date of the award."*

7 Considering the above and by applying the same principle in this matter, I am granting compensation of Rs.1,20,000/- to the Respondent/ Employee in lieu of reinstatement with continuity of service and Section 17-B benefits under the Industrial Disputes Act, 1947.

8 In the light of the above, this Writ Petition is partly allowed. The impugned award of the Labour Court dated 26.02.1997 in Reference (IDA) No.11/1989 is modified and the Respondent/ Employee is granted compensation of Rs.1,20,000/- (Rupees One Lac Twenty Thousand) towards lump-sum quantified compensation and he would not be entitled to any other benefits in relation to his employment and non employment with the Petitioner.

9 The said amount shall be paid by the Petitioner to the Respondent within TWELVE WEEKS from today, failing which the said amount shall carry interest at the rate of 6% per annum from the date of the award till it's actual payment.

10 Rule is made partly absolute in the above terms.

kps

(RAVINDRA V. GHUGE, J.)