

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5719 of 1995

Hausrao Abaji Ghodke,
Age-Major, Occu-Nil,
R/o Ambhora, Taluka Ashti,
Dist. Beed

-- PETITIONER

VERSUS

1. The Director,
Gramin Vikas Va Sanshodhan Kendra,
Ahmednagar College, Ahmednagar,

2. The State of Maharashtra

-- RESPONDENTS

Mr.N.K.Kakade, Advocate for the petitioner.
Mr.S.D.Kaldate, AGP for respondent No.2.
Mr.A.S.Bajaj, Advocate for respondent No.1.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 01/09/2016

ORAL JUDGMENT :

1. The petitioner is aggrieved by the judgment and order dated 09/02/1994 delivered by the Labour Court in which his Complaint (ULP) No.57/1988 has been partly allowed and he has been granted re-employment on the same terms and conditions on which he was previously working. Reinstatement with continuity and full back wages have been denied.

2. The petitioner is also aggrieved by the judgment and order dated

05/09/1995 by which his Revision (ULP) No.11/1994 has been dismissed.

3. Mr.Kakade, learned Advocate for the petitioner has strenuously criticized both the impugned judgments. Contention is that the petitioner was working for more than 2 years with the respondents from 1985 to 1987. He was appointed as a Supervisor. The nature of work that was available was with regard to the project floated by Lutheran World Relief and under the financial aid of the said Organization. Ahmednagar College where the said project was implemented, is an Establishment which is still in existence.

4. Though the petitioner was engaged on a project, the said project has continued. Consequentially, the termination of the petitioner on the ground that the work has come to an end is unsustainable. A Gramin Vikas Kendra, where the petitioner was employed for the said project, also continues. As such, the petitioner was entitled for reinstatement with continuity and full back wages. Instead the Labour Court has erroneously directed the respondent to re-employ the petitioner.

5. Mr.Bajaj, learned Advocate on behalf of respondent No.1 has

submitted a *purshis* dated 01/09/2016 to indicate that the respondent/client has taken away the brief for engaging another Advocate in his place. Said *purshis* is taken on record and is marked as Exhibit 'X' for identification.

5. Having considered the submissions of the learned Advocates of the petitioner, I have gone through the petition paper book with their assistance.

6. There is no dispute that the respondent/Management has not challenged the impugned judgments before this Court. Consequentially, the direction of giving reemployment to the petitioner on the same terms and conditions of his earlier engagement, as issued by the Labour Court are assailed only by the petitioner.

7. The Labour Court has considered that the Lutheran Committee had visited the respondent/College for implementing a Project. The petitioner was engaged by the respondent for the said project. On account of no funds being available, the said project was brought to an end. In my view, Section 2(o)(bb) of the Industrial Disputes Act, 1947 was squarely applicable to this case. However, the said issue is not required to be gone into by this Court since the respondent/

Management has not challenged the judgment of the Labour Court either before the Industrial Court or before this Court.

8. Notwithstanding the fact as recorded above, the Labour Court directed the respondents to re-employ the petitioner. Despite the allegations of non-compliance of Section 25-F, 25-G and 25-H of the I.D. Act, 1947 and despite the petitioner having not brought on record the name of even a single candidate who was junior to the petitioner and retained in service or was freshly appointed after terminating the petitioner, even then, the Labour Court has granted reemployment to the petitioner.

9. In fact, it is settled law that unless evidence in support of violation of Section 25-G and 25-H is not adduced, no order of re-employment would have been passed. Since the judgment of the Labour court is not assailed by the Management, I am not required to deal with this aspect.

10. Consequentially, this petition, being devoid of merit, is therefore dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)