

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

WRIT PETITION NO. 737 OF 1997

The State of Maharashtra.
Through the Executive Engineer,
Public Works Department,
Ahmednagar.

...PETITIONER

-VERSUS-

Pandurang Bhiwa Khedkar,
R/o Munguswadi, Tq.Pathardi,
District Ahmednagar.

...RESPONDENT

...

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 Petitioner is aggrieved by the judgment and award dated 05.06.1996 delivered by the Labour Court by which Reference (IDA) No.56/1988 has been partly allowed and the Respondent is granted reinstatement with continuity of service, but without back wages.

2 This Court, by order dated 27.02.1997, had stayed the

impugned award by granting prayer clause (D). By order dated 21.02.2002, this petition was admitted and interim relief was continued.

3 By order dated 07.07.2000 in Civil Application No.3438/1998 filed by the Respondent/ Employee, this Court had granted him benefits of Section 17-B of the Industrial Disputes Act, 1947.

4 I have considered the submissions of the learned Advocates for the respective sides for quite sometime.

5 The Respondent was working with the Petitioners from 01.06.1982 till 01.09.1986. The Written Statement filed by the Petitioners before the Labour Court Exhibit C/5 indicates that he had worked from 01.06.1982 to 01.05.1983 for about 231 days. He then worked from 01.06.1983 till 01.06.1984 and put in about 147 days. The Written Statement does not indicate about the employment of the Respondent during the period 19.06.1984 to 01.09.1986. While computing 240 days, the Labour Court has taken into account that weekly holidays and national holidays were not included while calculating 240 days. Placing reliance upon reported judgments, the Labour Court concluded that weekly holidays and national holidays should be added to the total days of actual working so as to calculate 240 days in employment.

6 It appears from the impugned award that the Respondent proved that he had worked for four years with the Petitioner.

7 It is evident that in this case the Respondent is said to have worked on daily wages for a period of about four years and is out of employment for the last 30 years. Eventually, this is a case of a short spell of employment followed by a long period of 30 years of unemployment. The Honourable Apex Court in the following four cases has concluded that in such situations, quantified compensation would be an appropriate relief rather than granting reinstatement with back wages:-

- (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].*

8 Considering the above, I deem it appropriate to modify the impugned award. This Writ Petition is, therefore, partly allowed. The

impugned award dated 05.06.1996 stands modified and the Respondent would be eligible to the compensation of Rs.1,20,000/- (Rupees One Lac Twenty Thousand). The amount of wages paid under Section 17-B of the Industrial Disputes Act, 1947 pursuant to the order of this Court dated 07.07.2000 shall be set off against the compensation amount and then, the residual amount, if any, shall be paid to the Respondent in SIXTEEN WEEKS.

9 In the event, the said amount is not paid within the time as is directed above, the Respondent would be entitled for simple interest at the rate of 6% per annum from the date of the award till it's actual payment and the amount of interest shall be recovered from the salary of the Executive Engineer, Public Works Division, Ahmednagar. Needless to state, the interest amount shall not be paid from the State exchequer.

10 In the event, the amount paid under Section 17-B to the Respondent is more than the compensation granted by this Court, there shall be no recovery from the Respondent.

11 Rule is made partly absolute in the above terms.