

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 653 OF 1997

1. State of Maharashtra

2. Executive Engineer,
Public Works Department,
Padampura, Aurangabad.

..Petitioners

Versus

Sahebrao Siddeswar Kakde
Age major, Occupation Nil,
r/o at Post Bhendala, Taluka
Gangapur, Dist. Aurangabad.

..Respondent

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AGP for Petitioners : Shri Kutti P.N.
Advocate for Respondent : Shri Pahune Patil N.J.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 13, 2016

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ORAL JUDGMENT :-

1. The petitioners have challenged the ex-parte award dated 29.2.1996, by which, Reference (IDA) No.2 of 1995 has been allowed and the petitioners are directed to reinstate the respondent with continuity, full backwages and pay Rs.750/- as compensation.

2. I have considered the submissions of the learned Advocates for the respective sides.

3. It is evident from the impugned award that besides filing an

affidavit, by way of examination-in-chief, there was no material before the Labour Court to conclude that the respondent had completed 240 days in continuous service in between 8.2.1985 to 1.9.1986. The conclusions drawn by the Labour Court are that, *“It would not by any exaggeration to mention here that, in the fitness of things the Court is also inclined to grant the second party workman full relief, in addition to it, heavy costs of Rs.750/- each to be deducted from the payment of the concerned personnel of the first party employer, responsible officer concerned for the said lapse, and it be paid as compensation to the second party workman concerned in these three references, respectively.”* In my view such conclusions by the Labour Court are unsustainable in law.

4. It emerges from the record that the respondent is out of employment for the last 30 years, after having worked for about a year. In these circumstances, there could be no relief of reinstatement in service, more so, when there was no evidence before the Labour Court to make out a case of illegal retrenchment.

5. In my view the ratio laid down by the Honourable Supreme Court in the following four cases would be applicable to this case:-

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].*

6. In the light of the above, this petition is partly allowed. The impugned award dated 29.2.1996 is quashed and set aside. Considering the effect of Section 17-B of the Industrial Disputes Act, 1947, I am granting compensation of Rs.40,000/- (Rs. Forty Thousand only/-) to the respondent and Reference (IDA) No.2 of 1995 stands disposed off in view of the said compensation. The petitioner shall pay the said compensation to the respondent within a period of twelve weeks from today, failing which, the amount shall carry interest at the rate of 6% per annum from the date of decision and the amount of interest shall then be recovered from the Executive Engineer of the Public Works Department, Aurangabad.

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

(RAVINDRA V. GHUGE, J.)

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akl/d