

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

WRIT PETITION NO.133 OF 1997

- 1 The State of Maharashtra.
Through Government Pleader,
High Court, Aurangabad.
- 2 The Executive Engineer,
Mula Irrigation Division,
Aurangabad Road, Ahmednagar.

...PETITIONERS

-VERSUS-

- 1 Vithal Baburao More,
R/o Naryan Gavan,
Tq.Parner, Dist.Ahmednagar.
- 2 Presiding Officer & Judge,
1st Labour Court, Ahmednagar.

...RESPONDENTS

WITH
CIVIL APPLICATION NO.5904 OF 2001
IN WP/133/1997
WITH
CIVIL APPLICATION NO.8195 OF 2013
IN WP/133/1997

VITHAL BABURAO MORE.
-VERSUS-
THE STATE OF MAHARASHTRA AND ANOTHER.

...
AGP for Petitioners/ State : Shri P.N.Kutti.
Advocate for Respondent/Employee : Shri A.S.Shelke.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 06th October, 2016

Oral Judgment :

1 Respondent No.2 being a formal party, stands deleted from the proceedings.

2 The Petitioner/ State of Maharashtra is aggrieved by the judgment and award dated 30.12.1995 by which Reference (IDA) No.47/1992 filed by the Respondent has been allowed and he is granted reinstatement with continuity in service and 25% back wages from the date of institution of the reference proceedings.

3 The learned AGP appearing on behalf of the Petitioner has strenuously criticized the impugned award. The contention is that mere completion of 240 days would not give any right to continuance in employment to the Respondent. The Respondent has gained a back door entry in employment and he could not have been permitted to be continued. He has worked intermittently in between 23.09.1987 to 20.10.1989 as a Watchman. His reference has been erroneously allowed by the Labour Court.

4 He further draws my attention to the grounds raised in the petition for challenging the award. He further submits that when the posts

were not available, the Respondent could not have been absorbed in employment. The Petitioner does not have the authority to create posts. He, therefore, prays that the impugned judgment be quashed and set aside.

5 Shri Shelke, learned Advocate for the Respondent/ Employee, has strenuously supported the impugned award. He further draws my attention to the fact that the Respondent was reinstated on 23.07.1996 and since then, he has continued in employment and settled in employment. His proposal under the Kalelkar Settlement for being taken on Converted Regular Temporary Establishment (CRTE) was initially forwarded and the same is pending owing to the pendency of this petition. He further submits that a fresh proposal has been forwarded on 28.07.2015 and the same is also pending with the appropriate authority.

6 I have considered the submissions of the learned Advocates.

7 It was established before the Labour Court that the Respondent has worked as a Watchman in between September, 1987 to October, 1989. It is also indisputable that the Respondent has been reinstated on 23.07.1996. It is equally undisputed that the Kalelkar Settlement is applicable to the Petitioner / Irrigation Department. As per

the Kalelkar Settlement, after completion of five years in continuous service, an employee is entitled to be taken on CRTE. After putting in five years on CRTE, he would be entitled for regularization. It also cannot be ignored that the Respondent has settled in employment for the last more than 21 years.

8 In the light of the above, I do not find it necessary to cause any interference in the impugned award. The Writ Petition is being disposed of in the light of the subsequent events.

9 Needless to state, the Petitioner/ State shall process the Respondent's proposal strictly in accordance with the terms of the Kalelkar Settlement and extend the benefits of the Kalelkar Settlement by taking the Respondent on CRTE and further benefits to which he would be entitled to after putting in five years on CRTE.

10 Rule is discharged.

11 In the light of the above directions, the pending Civil Applications do not survive and the same are also disposed of.