

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 235 OF 1997

1. The State of Maharashtra
Through the Executive Engineer,
PWD, Jalgaon.

2. The Assistant Engineer-1,
EGS (PW) Sub Division, Amalner,
District Jalgaon.

..Petitioners

Versus

1. Jagannath Pundlik Thakare
Age 35 years, Occ.
R/o Walkheda, Tq. Sindhkheda,
District Dhule.

2. The Learned Judge,
Labour Court, Jalgaon.

3. The Learned Member,
Industrial Court, Nasik.

..Respondents

...

AGP for Petitioners : Shri Kutti P.N.
Advocate for Respondent 1 : None present
Advocate for Respondents 2 & 3 : Deleted

...

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

...

ORAL JUDGMENT :-

1. Respondent Nos.2 and 3 are the Labour Court and the Industrial Court and hence, stand deleted from these proceedings.

2. The petitioners are aggrieved by the order dated 20.8.1996,

passed by the Industrial Court, by which, it was concluded that the Revision Petition No.104 of 1996 was not tenable.

3. I have heard the learned AGP on behalf of the petitioners. None has appeared for the respondent, despite having adjourned this matter earlier.

4. This Court has directed the petitioners to continue the respondent in employment by order dated 13.7.1999 passed in Civil Application No.2347 of 1999.

5. Though the learned AGP has strenuously submitted that the respondent being a daily wager, could not have been continued in employment and his disengagement would not amount to illegal retrenchment, it cannot be ignored that the Labour Court has granted interim relief to the respondent on 9.3.1993 in his Complaint (ULP) No. 189 of 1992. By virtue of the said order, he was continued in employment during the pendency of the complaint. When the Labour Court delivered its judgment dated 6.6.1996, it took into account the fact that the respondent / employee was already reinstated and continued in employment.

6. After considering the submissions of the learned AGP and the facts emerging from this case, I am entertaining this petition only on

account of the impugned order of the Industrial Court dated 20.8.1996 being unsustainable in law.

7. After the Labour Court had delivered its judgment dated 6.6.1996, the petitioner had preferred a Revision Petition No.104 of 1996. It is specifically mentioned in the cause title of the Revision Petition that Section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (“the said Act”) has been invoked. Despite the same, the Industrial Court has surprisingly passed a cryptic order, concluding that no provision of law is violated by the Labour Court and hence the Revision is rejected for being not maintainable, at the admission stage itself.

8. In my view, the said order is unforeseen in law and is wholly unsustainable. This petition is, therefore, being partly allowed by quashing and setting aside the impugned order dated 20.8.1996. The Industrial Court was obliged to decide the Revision Petition, which was clearly filed under Section 44 and within two months from the date of the impugned judgment of the Labour Court.

9. In the light of the above this petition stands partly allowed. Revision (ULP) No.104 of 1996 is remitted back to the Industrial Court, Jalgaon for being considered afresh under Section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair

Labour Practices Act, 1971.

10. Needless to state that the Industrial Court shall issue fresh notices to the litigating sides. All contentions of the litigating sides are kept open, including that the petitioners contend that the respondent was working on EGS. It is expected that the Industrial Court shall decide this Revision Petition, as expeditiously as possible, and preferably on/or before 31.3.2017. As the respondent has been in employment from 1993, and in the event he is in employment even today, he shall be continued on the same terms and conditions on which he has been working pursuant to the earlier orders of the Labour Court and of this Court, during the pendency and decision of the Revision Petition.

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

(RAVINDRA V. GHUGE, J.)

...

akl/d