

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3858 OF 2001

1. Maharashtra State Electricity
Dist. Co. Ltd., through the
Executive Engineer, MSEDCL,
Chapne Building, Anand Nagar,
Osmanabad.

2. Maharashtra State Electricity
Dist. Co. Ltd., through the
Junior Engineer, MSEDCL,
Civil Camp, Girwadi, Tq. Ambajogai,
District Beed.

..Petitioners

Versus

Mohan Sidaram Holkar,
Aged major, Occ. Labour,
R/o Jawalgaon, Tq. Ambajogai,
District Beed.

..Respondent

WITH

WRIT PETITION NO. 3903 OF 2001

1. Maharashtra State Electricity
Dist. Co. Ltd., through the
Executive Engineer, MSEDCL,
Chapne Building, Anand Nagar,
Osmanabad.

2. Maharashtra State Electricity
Dist. Co. Ltd., through the
Junior Engineer, MSEDCL,
Civil Camp, Girwadi, Tq. Ambajogai,
District Beed.

..Petitioners

Versus

Bhau Nagorao Jogdand,
Aged 25 years, Occ. Labour,
R/o Pimpla Dahiguda, Taluka
Ambajogai, District Beed.

..Respondent

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Advocate for Petitioners : Shri Deshpande Dhananjay P.
Advocate for Respondents : Shri Shahane Parag
h/f Shri Shahane P.L.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 04, 2016
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ORAL JUDGMENT :-

1. Both these petitions have been admitted by this Court on 6.12.2001 and 3.12.2001 respectively. Interim relief was refused to the petitioner / management.
2. Shri Deshpande, learned Advocate for the petitioner / management submits that the judgments of the Labour Court, allowing the Complaints filed by the respondents / employees, as well as the judgments of the Industrial Court dismissing the revision petitions filed by the petitioners, have been challenged in these two petitions.
3. Grievance is that the Labour has erroneously concluded that the respondents are in continuous employment and have completed 240 days IN continuous and uninterrupted service of the petitioners. The petitioners had filed an identical written statement before the Labour Court in these matters. It was contended that the respondents are not workmen. They were employed by the petitioners on the job basis to safeguard and maintain the water supply pipeline of the petitioner establishment.
4. It is further submitted that the respondents were paid their wages on job work basis. There was a ban on the recruitment of Class III and Class IV employees from 1983. Regular posts were not available. The petitioners

stopped allocating work to the respondents since they were engaged whenever the work was available. Their work is of a casual manner.

5. Shri Deshpande submits that all the contentions of the petitioners have been negated by the Labour Court, erroneously, and the same error has been committed by the Industrial Court. He, therefore, vehemently submits that both the impugned judgments deserve to be quashed and set aside.

6. Shri Shahane, learned Advocate appearing on behalf of the respondents has supported the impugned judgments. Contention is that the entire oral and documentary evidence placed on record before the Labour Court has been properly considered. Provisions of the Industrial Disputes Act have not been complied with by the petitioners. The Labour Court has adduced reasons in support of its conclusions, which are based upon the oral and documentary evidence on record.

7. He further submits that the petitioners had taken a stand that there is a Contractor, who has deployed the respondents and that the respondents had abandoned their service. These contentions were not proved by the petitioners before the Labour Court. The impugned judgment of the Labour Court does not call for an interference. The judgment of the Industrial Court also deserves to be upheld.

8. I have considered the submissions of the learned Advocates, who

have taken me through the record available.

9. The petitioners first contention was that a Contractor was appointed. He had deployed the respondents. Neither was an application made by the petitioners to add the Contractor as a party, nor did the petitioners produce the Contractor to adduce oral and documentary evidence.

10. Upon going through the evidence adduced by the parties, it is apparent that the petitioners failed to establish the existence of a Contractor as well as that the respondents were deployed by a Contractor. Merely because a contention is set out in the Written Statement, the same could not have been accepted without oral and documentary evidence. The issue of no employer - employee relationship was, therefore, not proved by the petitioners.

11. The respondents proved before the Labour Court that they were working continuously. It was also proved that the petitioners had failed in complying Section 25-F of the Industrial Disputes Act, 1947.

12. In the above backdrop, I do not find that the impugned judgment of the Labour Court could be termed as being perverse or erroneous or causing gross injustice to the petitioners.

13. Consequentially, the judgment of the Industrial Court does not call for any interference.

14. It is informed that both the respondents have been reinstated in employment in 1999 and this Court had refused interim relief to the petitioners, while admitting the petitions.

15. In the light of the above, both these petitions being devoid of merit are, therefore, dismissed.

16. Rule, in both the petitions stand discharged.

(RAVINDRA V. GHUGE, J.)

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akl/d