

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

**REVIEW APPLICATION NO. 172 OF 2015
IN
WRIT PETITION NO. 7226 OF 2012**

Rafeeqe Khawaja Miya Maniyar .. Petitioner

Versus

The Managing Director, SBH and others .. Respondents

Shri Suhas P. Urgunde, Advocate for the Review Applicant.

Shri Siddharth Deshpande, Advocate for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA
V. K. JADHAV, JJ.**

DATE : 04TH MARCH, 2016.

PER COURT :

. Mr. Urgunde, the learned counsel for the review applicant submits that, in the writ petition the party in person appeared, however, did not argue the matter and requested the Court to decide the matter on merits. There was no assistance to the Court in bringing to the notice of the Court the factual matrix. In fact, before the Labour Court when an award is passed on 03rd October, 2007 in a dispute which was referred by the Government, the management had made a statement that, six workmen who are demanding the regularization are already made permanent in the bank service and now their case does not exist. The review applicant is one of the six workmen. Said

order was not implemented, as such the petitioner in the writ petition is seeking regularization and arrears. According to the learned counsel, this fact could not be brought to the notice of this Court while deciding the writ petition, though the award of the Labour Court was on record.

2. Mr. Deshpande, the learned counsel for the non applicants/respondents strenuously contends that, jurisdiction of this Court in review is in narrow compass. This Court in writ jurisdiction cannot consider the regularization of a part time employee. The learned counsel relies on the judgment of the Apex Court in the case of **Secretary to Government, School Education Department, Chennai Vs. Thiru R. Govindaswamy and others** reported in **2014 AIR SCW 1642**. The learned counsel further submits that, there was no error apparent on the face of record. According to the learned counsel after the judgment of the Labour Court, the petitioner did not report for the duties and there is continuous absentism. The order under review is legal and proper and no interference is called for.

3. We have considered the submissions. There cannot be any dispute with the proposition that the review cannot be treated as an appeal in disguise and the jurisdiction of this Court in review is in very narrow compass.

4. We had disposed of the writ petition on the ground that, there is nothing on record to show that the petitioner has worked for more than hundred days continuously in a calender year and further Labour Court has not granted any relief to the petitioner.

5. In the award of the Labour Court dated 03.10.2007, it is recorded by the learned Labour Court as under :

"(9) According to the Management, six workmen who are demanding regularization have already been made permanent in the bank services and now their case does not exist. So far as termination of 4 (Four) employees is concerned, the Bank has denied that they have completed the 240 days continuous service in the relevant period of 12 months. They being daily wagers, bank is always entitled to disengage them because their services were utilized as and when required and existence of the work."

6. In view of the said observation of the Labour Court, the Labour Court did not find it necessary to pass any orders with regard to regularization in respect of six workmen. It is submitted that, the petitioner is one of the six workmen. The said aspect was not considered while disposing of the writ petition. So far as the writ jurisdiction under Article 226 of the Constitution of India is concerned, the same can be considered while dealing with the writ petition.

7. In the light of the above, the order dated 28th November,

2014 in Writ Petition No. 7226 of 2012 is reviewed and recalled. The review application accordingly is allowed and disposed.

8. Place the Writ Petition No. 7226 of 2012 before the appropriate Court.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]

bsb/March 16