

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

WRIT PETITION NO. 2527 OF 2016

Madhukar Banduji Pathare

..PETITIONER

VERSUS

The State of Maharashtra

..RESPONDENT

....

Mr. R.K. Khandelwal, Advocate for petitioner.

Mr. D.R. Korde, AGP for respondent.

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 7th MARCH, 2016

ORDER :

1. The petitioner is aggrieved by the impugned judgment and award dated 23.09.2015 delivered by the Labour Court in Reference IDA No. 42/2009.

2. The contention of Mr.Khandelwal, learned Counsel for the petitioner is that the petitioner was working from 01.04.1976 till 31.03.1983 as a labourer on daily wages at villages Pendephall, Nimgodgaon, Koradgaon, Kharad, Chikatgaon, Tasphuli. It was

contended that he lastly worked at Talwade Nursery and was orally terminated on 31.03.1983. His last drawn wages were @ Rs.15/- per day.

3. Mr. Khandelwal further submits that a copy of the experience certificate issued by the Forest Officer was also placed on record to indicate that the petitioner was working continuously with the respondent. Despite the above referred document, the Labour Court has rejected the reference.

4. He further submits that a notice for production of documents was issued and in response to the same, the respondent had produced documents at Exhibit C/4/1 to 19. All these documents indicate that the petitioner was working continuously and hence the impugned award is perverse and deserves to be quashed and set aside.

5. I have considered the submissions of Mr.Khandelwal.

6. At the outset, though there is no limitation prescribed by the Industrial Disputes Act, 1947 with regard to raising an

industrial dispute under Section 2(k) and Section 2-A, it cannot be ignored that the petitioner has raised an industrial dispute after 25 years and 10 months. The experience certificate produced by him in xerox form indicates that he was working in between 01.05.1980 to 31.01.1982 at Pandephall plantation. This period is roughly of about 1 year and 8 months.

7. From 01.02.1982 till 17.11.2008 which is a period of about 25 years and 10 months, no industrial dispute has been raised. It is only on 17.11.2008 that an industrial dispute was raised by the petitioner.

8. In this back drop, I do not find that the respondent could be faulted for having not maintained any record since the respondent is not expected to preserve the records of a daily wage earner who had worked for 1 year and 8 months, for a period of 25 years and 10 months after his disengagement.

9. The Labour Court has considered the documents produced by the respondent pursuant to the notice for production

of documents. All these documents were exhibited at C/4-1 to 19. All these documents were maintained with regard to the EGS work and the names of those labourers who were engaged on EGS find place in the said documents. The Labour Court has also held that the experience certificate was not proved by the petitioner through its evidence. So also, it is settled law that workers working on EGS cannot have any right to claim continuous work under the M.R.T.U. & P.U.L.P. Act, 1971.

10. Considering the fact of delay as well as the fact that the documents produced by the respondent indicate the work done by the petitioner was on EGS, that led the Labour Court to answer the reference in the negative.

11. I do not find that any perversity or error in the impugned award has been pointed out by the petitioner. This petition is devoid of merits and is therefore dismissed.

(RAVINDRA V. GHUGE, J.)