

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3255 OF 1995

1. The State of Maharashtra,
Social Forestry, Mantralaya,
Bombay 32 through Secretary.

2. The Deputy Director,
Social Forestry,
Ahmednagar Division,
Sudke Mala, Ahmednagar.

3. The Social Forestry,
Pathardi, Ahmednagar.

..Petitioner

Versus

Dnyaneshwar Jagnath Garud
deceased and substituted by
Smt. Bebitai Dnyaneshwar Garud,
Age 33 years, at and post
Jod Mohoj, Taluka Pathardi,
District Ahmednagar.

..Respondent

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Special Advocate for Petitioners : Shri Sharad S. Shinde
h/f Shri V.V.Bhavthankar a/w Shri P.N.Kutti, AGP
Advocate for Respondent : Shri P.V. Barde

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 22, 2016

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ORAL JUDGMENT:-

1. The petitioner department is aggrieved by the judgment
of the Industrial Court dated 18.1.1995, vide which, the original

complainant Dnyaneshwar Garud is granted permanency and benefits incidental thereto. This Court, while admitting this petition, has stayed the impugned judgment. The original complainant has passed away on 3.7.2001. His wife has been brought on record.

2. Respondent No.2 is the Industrial Court and hence, stands deleted.

3. I have considered the strenuous submissions of the learned Advocate for the petitioner and on behalf of the sole respondent.

4. The issue is as regards the deceased complainant having completed 240 days in continuous employment. Though the learned Advocate for the petitioner has vehemently criticized the impugned judgment, I find that the petitioner had filed a chart at Exhibit C-9/1 in order to state the number of days worked by the deceased employee. Since the said chart had been submitted by the petitioner, the Industrial Court has come to a conclusion on the basis of the same that the deceased had worked for 131 days in 1986, 198 days in 1987, 281 days in 1988,

324 days in 1989, 356 days in 1990 and 58 days in 1991. It is, therefore, apparent that the deceased had put in 240 days in a calendar year of 12 months from the date of reference, which is May 1991. Consequentially, it is established on the basis of the petitioner's record that the deceased had worked for 240 days in four years.

5. The seniority list was produced at Exhibit U-14/1. The name of the deceased appeared at Sr. No.11 in the said list.

6. The petitioner does not appear to have raised an issue as to whether Social Forestry is an 'industry' or not. I am not inclined to consider the said issue after 25 years of litigation in between the parties and more so, when the original complainant has passed away.

7. Considering the above, I deem it proper to grant compensation to the widow of the deceased in the light of the ratio laid down by the Honourable Supreme Court in the following four judgments:-

1. Assistant Engineer, Rajasthan State Agriculture

Marketing Board, Sub-Division, Kota Vs. Mohanlal [2013 LLR 1009],

2. Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh [(2013) 5 SCC 136],

3. BSNL Vs. Man Singh [(2012) 1 SCC 558] and

4. Jagbir Singh Vs. Haryana State Agriculture Marketing Board [(2009) 15 SCC 327].

8. Honourable Apex Court has held that an amount of Rs.30,000/- per year of service would be appropriate compensation in lieu of reinstatement or continued employment.

9. As such, this petition is partly allowed. Considering the subsequent events and the death of the original complainant, the petitioner shall pay compensation of Rs.1,20,000/- (Rs. One Lakh Twenty Thousand only/-) to the widow of the respondent as quantified compensation for all benefits flowing from his employment and the judgment of the Industrial Court.

10. Said amount shall be paid by the petitioner within a

period of twelve weeks from today, failing which, the said amount shall carry interest at the rate of 6% p.a. and the said interest shall be recovered from the salary of the officer of the petitioner who is responsible for the delay caused in making the payment. The interest amount shall not be paid from the State exchequer and by fixing the responsibility on the officer who has caused the delay, shall be payable from his salary account.

11. Rule is made partly absolute in above terms.

(RAVINDRA V. GHUGE, J.)

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