

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3132 OF 2006

Ramesh Jabaji Lawhate,
Age 38 years, Occ. Nil,
r/o at and post Chinchapur,
Tq. Sangamner, District
Ahmednagar.

..Petitioner

Versus

The Divisional Controller,
Maharashtra State Road
Transport Corporation,
Ahmednagar Division,
Ahmednagar.

..Respondent

...
Advocate for Petitioner : Shri P.V.Barde
Advocate for Respondent : Shri M.K.Goyanka
...

CORAM : RAVINDRA V. GHUGE, J.
Dated: October 03, 2016
...

ORAL JUDGMENT:-

1. The petitioner is aggrieved by the Part II award dated 17.1.2004, whereby, Reference (IDA) No.11 of 1996 was partly allowed.

2. I have heard the strenuous submissions of the learned Advocates for the respective sides.

3. This Court while admitting the petition on 24.4.2006 has

refused interim relief to the petitioner. So also, the respondent / Corporation had challenged the same Part II award dated 17.1.2004, in Writ Petition No.976 of 2005, which was dismissed on 13.2.2006.

4. As such, the issue is as regards Section 17B Industrial Disputes Act benefits for about ten months from the date of filing of this petition till the retirement of the petitioner on 13.3.2005. It is stated that the gratuity has been paid till the date of his dismissal 12.7.1988.

5. The petitioner had admitted before the Labour Court that he held a driving license for a heavy vehicle and that he was driving such a vehicle. He had further stated that he was getting Rs.50/- per day through labour works. Keeping in view the law laid down by the Honourable Apex Court in the matter of J.K.Synthetics Ltd vs. K.P. Agrawal and another [(2007) 2 SCC 433], an employee has to lead evidence to establish that he had made attempts to seek alternate employment and despite his attempts, he could not secure such employment. Only then, he could be entitled for backwages.

6. The impugned Part II award was published on 18.5.2004. The petition filed by the respondent has been dismissed. As such, this petition stands disposed off, keeping in view that the petitioner / employee's claim for backwages in this petition cannot be

entertained. He would be entitled to gratuity amount from the date of dismissal 12.7.1988 till his date of retirement 31.3.2005 and for Section 17B wages, which would amount to ten months last drawn salary, which the respondent shall pay to the petitioner, within a period of twelve weeks from today, failing which he shall be entitled for 6% interest on both the said amounts from the date of the award.

7. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

...

akl/d