

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

WRIT PETITION NO. 3219 OF 2011

- 1 Executive Engineer,
 Kukadi Project Land
 Development Division No.1,
 Ahmednagar.
 (For closed Division).

- Executive Engineer,
 Kukadi Command Area
 Development Division,
 Sinchan Bhavan, Ahmednagar,
 Tq. & District Ahmednagar.

- 2 Executive Engineer,
 Maharashtra Water Utilisation
 Department No.1, Ahmednagar,
 Taluka and District Ahmednagar.

...PETITIONERS

-VERSUS-

Bhaga s/o Prabhu Bhosale,
Age : 48 years, Occupation : Nil,
R/o At Post Shirapur,
Taluka Parner,
District Ahmednagar.

...RESPONDENT

**WITH
WRIT PETITION NO.4658 OF 2011**

- 1 Executive Engineer,
 Kukadi Project Land
 Development Division No.1,
 Ahmednagar.
 (For closed Division).

Executive Engineer,
Kukadi Command Area
Development Division,
Sinchan Bhavan, Ahmednagar,
Tq. & District Ahmednagar.

- 2 Executive Engineer,
Maharashtra Water Utilisation
Department No.1, Ahmednagar,
Taluka and District Ahmednagar.

...PETITIONERS

-VERSUS-

Balu s/o Prabhu Bhosale,
Age : 48 years, Occupation : Nil,
R/o At Post Shirapur,
Taluka Parner,
District Ahmednagar.

...RESPONDENT

...

Advocate for Petitioners : Shri Rajale Gulab B.

Advocate for Respondents : Shri P.V.Barde.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 27th October, 2016

Oral Judgment :

- 1 The Petitioner in both these petitions is the same Department, which is aggrieved by the judgment and award delivered by the Labour Court dated 27.09.2010 in Reference (IDA) Nos.3/1996 and 9/1996 by which the Respondents/ Employees have been granted reinstatement with

effect from their respective dates of termination, with continuity and back wages from the dates of lodging of the reference proceedings.

2 This Court, while admitting the petitions on 05.08.2011, had stayed the payment of back wages until the disposal of the Writ Petitions. The Petitioners had approached the Honourable Supreme Court in SLP Nos.19722-19725 of 2014, which were disposed of by order dated 12.07.2016 with the expectation that this Court would decide both these petitions within six months from the date of the order.

3 I have considered the submissions of the learned Advocates for the respective sides for quite sometime and have gone through the petition paper books.

4 The learned Division Bench of this Court (to which I am a party) by order dated 18.10.2013 had concluded that there is no dispute as regards the tenure of employment of the employees. Both the learned Advocates do not have any objection if this Court hears these matters considering that the Division Bench has disposed of the Letter Patent Appeal Nos.298/2011 and 299/2011 filed by the Petitioners.

5 Considering the above, there remains no debate about the

duration of work performed by these two Respondents/ Employees, which is two years in the first petition and three years in the second petition. There is also no dispute that both these Respondents/ Employees are not in employment from 1983 and as such, the period of non employment is 33 years.

6 The Honourable Supreme Court has taken a view in the matters of such nature in the following four cases that where the employees have put in a short spell of service and are out of employment for a long duration, quantifying the compensation at the rate of Rs.30,000/- per year of service put in by them, would be an appropriate relief rather than granting reinstatement with continuity and back wages:-

- (a) *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal, [2013 LLR 1009];*
- (b) *Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh, [(2013) 5 SCC 136];*
- (c) *BSNL Vs. Man Singh, [(2012) 1 SCC 558]; and*
- (d) *Jagbir Singh Vs. Haryana State Agriculture Marketing Board, [(2009) 15 SCC 327].*

7 In the instant case, though the compensation would,

therefore, be about Rs.60,000/- for the Respondent in the first petition and Rs.90,000/- for the Respondent in the second petition, it cannot be ignored that by order dated 05.08.2011, this Court had only stayed the payment of back wages and expected the Petitioners to reinstate the Respondents. It is informed that the Petitioners have not reinstated the Respondents in service and as a consequence, they have continued to be out of employment.

8 In the light of the above, both these petitions are partly allowed and the directions of the Labour Court in the impugned awards granting reinstatement with continuity and some back wages is modified by directing the Petitioners to pay compensation of Rs.80,000/- (Rupees Eighty Thousand) to the Respondent (Bhaga Prabhu Bhosale) in the first petition and Rs.1,10,000/- (Rupees One Lac Ten Thousand) to the Respondent (Balu Prabhu Bhosale) in the second petition, with TWELVE WEEKS from today.

9 In the event, the Petitioners fail to pay the said compensation within the time frame, both the Respondents/ Employees would be entitled for interest at the rate of 6% per annum from the date of the awards till it's actual payment and the said amount of interest shall be paid from the salary of the Executive Engineer, Kukadi Project Land

Development Division No.1, Ahmednagar. Needless to state, the amount of interest shall not be paid from the State exchequer.

10 Rule is made partly absolute in the above terms.

kps

(RAVINDRA V. GHUGE, J.)