

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3433 OF 2013 WITH
CIVIL APPLICATION NOS.7989 OF 2013 AND
CIVIL APPLICATION NO.4932 OF 2014

1. Rangnath Mahadu Katore,
Age-39 years, Occu-Nil,
2. Somnath S/o Namdeo Pathave,
Age-41 years, Occu-Nil,
3. Navnath Shankar Kale,
Age-35 years, Occu-Nil,
4. Manohar S/o Soma Ughade,
Age-41 years, Occu-Nil,

All R/o Deothan, Tq.Akole,
Dist. Ahmednagar,
5. Kailas S/o Bhagwat Wackchaure,
Age-48 years, Occu-Nil,
R/o Virgaon, Tq. Akole,
Dist. Ahmednagar,
6. Tukaram S/o Jagannath Mundhe,
Age-38 years, Occu-Nil,
R/o Titavi, Tq. Akole,
Dist. Ahmednagar,
7. Narayan S/o Rama Bangar,
Age-35 years, Occu-Nil,
R/o Babhulvandi, Post Deogaon,
Tq. Akole, Dist. Ahmednagar

-- PETITIONERS

(The members of Ahmednagar District Forest
Workers Union, Trade Union Centre,
Near Tahasil Office, Sangamner,
Dist. Ahmednagar)

VERSUS

The Deputy Forest Conservator,
Forest Division, Van Bhavan,
Nagar-Aurangabad Road,
Ahmednagar,
Tq. and Dist. Ahmednagar

-- RESPONDENT

WITH
WRIT PETITION NO.3490 OF 2013

Sharad s/o Kisan Ghadge,
Age-40 years, Occu-Nil,
R/o Deothan, Tq.Akole,
Dist. Ahmednagar
(The member of Ahmednagar District Forest
Workers Union, Trade Union Centre,
Near Tahasil Office, Sangamner,
Dist. Ahmednagar)

-- PETITIONER

VERSUS

The Deputy Forest Conservator,
Forest Division, Van Bhavan,
Nagar-Aurangabad Road,
Ahmednagar,
Tq. and Dist. Ahmednagar

-- RESPONDENT

Mr.R.D.Bhalerao, Advocate for the petitioners.
Mr.U.K.Patil, Special Counsel with Mr.P.N.Kutti, AGP for
respondent/State.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 28/09/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. I have heard the learned Advocates for the respective sides at

length. There are 7 petitioners in the 1st writ petition and one in the 2nd writ petition. By civil Application Nos.7989/2013 and 4932/2014, Arun Rangnath Kale and Sunil Ramnath Sonawane, who were original complainants before the Labour Court in Complaint (ULP) No.140/1997, are sought to be added as petitioner Nos. 8 and 9 respectively. For the reasons set out in both the civil applications, they are allowed and Arun and Sunil are permitted to be arrayed as petitioner Nos. 8 and 9 in the 1st writ petition.

3. The Ahmednagar District Forest Workers Union was representing these 10 petitioners alongwith few others. Since the Union has stopped espousing their cause, these 10 workers are before this Court as petitioners.

4. By judgment dated 13/06/2008, the Labour Court has partly allowed the complaint by allowing the claim of one worker namely Balu Dighe at Sr.No.20 and dismissed the complaint as against 19 workers out of which 10 are before this Court. The Union as well as the Deputy Conservator of Forest preferred Revision (ULP) No.15/2009 and 40/2008 respectively for challenging the judgment of the Labour Court. By judgment dated 05/07/2011, the judgment of the Labour Court dated 13/06/2008 was quashed and set aside and

Complaint (ULP) No.140/1997 was remitted to the Labour Court for a decision afresh.

5. By judgment dated 23/12/2011, the Labour Court partly allowed the complaint and granted Rs.6,000/- as retrenchment compensation to all the 20 workers represented by the Union. By judgment dated 01/03/2013, Revision (ULP) No.32/2012 filed by the Union was dismissed.

6. It appears that the respondent / department did not file adequate record before the Labour Court to establish that these 10 workers were working on EGS. If it is concluded that they are working on EGS, they would not stand to gain any relief from the Labour Court.

7. In the first judgment delivered by the Labour Court dated 13/06/2008, the documents produced by the Forest Department at Exh.C-4, C-10 and C-11 indicated the names of the workers, the period of work and the activity for which they were given work. These documents were prepared by the D.F.O. Akole (EGS). The said judgment was set aside by the Industrial Court on 05/07/2011. After remand, the Labour Court has then delivered the judgment dated

23/12/2011 by which the petitioners are granted Rs.6,000/- as compensation.

8. There is no dispute that besides oral statements, the petitioners have not relied on any such evidence adduced by them in the form of documents which would indicate completion of 240 days in a calendar year. They have wholly relied upon C-4, C-10 and C-11. The Labour Court has interpreted those documents by concluding that though these documents indicate that the petitioners were working on EGS, the Department should have brought some more documents in the form of their registration as EGS employees.

9. In my view, when the petitioners have not produced any evidence and have relied upon the documents produced by the Department on the basis of which they have attempted to build their case, the said documents cannot be selectively utilized. The Labour Court should have considered the overall effect of these documents as a piece of evidence. When the list of workers is maintained by the D.F.O. (EGS), when their number of days worked are recorded by the D.F.O. (EGS) and when all these documents are produced by the D.F.O. (EGS) indicating that they were retained as employees on EGS, the Labour Court could not have ignored this fact that these

petitioners were in fact working on EGS. Their complaints, therefore, should have been rejected. Instead, the Labour Court has granted Rs.6,000/- as compensation to all the 20 workers.

10. The Industrial Court, by the impugned judgment dated 01/03/2013, has sustained the said findings. It is not disputed that Rs.6,000/- as were payable to these petitioners in January 2012, have still not been paid to them considering that the petitioners themselves had challenged the judgments of the Labour Court as well as the Industrial Court.

11. In the light of the above, though these petitions deserve to be dismissed. Since the amount of Rs.6,000/- was payable in January 2012, I am adding the interest component @ simple interest of 3% and quantifying the compensation at Rs.10,000/- for the 9 petitioners in this petition and the sole petitioner in the second petition.

12. In the light of the above, both these petitions are dismissed. However, the respondent is directed to pay Rs.10,000/- to these 10 petitioners within a period of 16 weeks from today, failing which additional interest @ 6% p.a. shall be computed from the date of this order. Needless to state, these directions are subject to the said

amounts still not having been paid to the petitioners.

13. Rule is discharged.

(RAVINDRA V. GHUGE, J.)