

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6195 OF 2015

THE EXECUTIVE ENGINEER,
MSEDCL AND OTHERS

PETITIONER

VERSUS

ANWARKHAN S/O CHANDKHAN PATHAN

RESPONDENT

Mr.S.M.Godsay with Mr.V.C.Patil, Advocate for the petitioner.
Mr.P.M.Shinde h/f Mr.P.B.Jadhav, Advocate for the respondent

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 05/02/2016

PER COURT :

1. This matter was heard on 08/01/2016.
2. The respondent was dismissed from service on 26/04/2013. He reached age of superannuation on 31/08/2013. His Complaint (ULP) No.6/2012 was dismissed by the Labour Court, Jalna by judgment dated 26/02/2012. His Revision (ULP) No.37/2014 was allowed by the impugned judgment dated 10/12/2014 delivered by the Industrial Court, Jalna by which his dismissal was set aside and he was reinstated in service with continuity and back wages.
3. During the course of hearing on 08/01/2016, the respondent

stated that he would not claim any monetary benefits from the petitioner provided he is granted notional continuity of service from 26/04/2013 till 31/08/2013 and is paid retiral benefits. The petitioner was agreeable for the said proposal.

4. Mr.Shinde, learned Advocate for the respondent submits on instructions and with liberty to file an affidavit within 1 (one) week, that if the petitioner grants continuity of service from 26/04/2013 till 31/08/2013 and pays all retiral benefits to the respondent, he would not press for the execution of the impugned judgment. Learned Advocate for the petitioner submits on instructions that as the respondent is not claiming any monetary benefits inclusive of back wages till 31/08/2013, the Management would grant him notional continuity of service from 26/04/2013 till 31/08/2013 and clear his retiral benefits as per procedure.

5. In the light of the above, this petition is partly allowed by modifying the impugned judgment of the Industrial Court dated 10/12/2014 as follows :-

[a] The respondent/employee waives all back wages and other monetary benefits from the date of his suspension till 31/08/2013. The petitioner/Management shall grant notional

continuity of service to the respondent from 26/04/2013 till 31/08/2013 and as such there shall be no break in service.

- [b] The petitioner shall disburse the retiral benefits to the respondent as expeditiously as possible and preferably within a period of 12 (twelve) weeks from today
- [c] The respondent shall file an affidavit/undertaking in the above terms within 1 (one) week in this Court and supply a copy of the affidavit to the learned Advocate for the petitioner.
- [d] The petitioner may consider its rules and regulations as to whether any interest on the retiral benefits can be granted to the respondent and if the rules so permit, such interest shall be paid.

(RAVINDRA V. GHUGE, J.)