

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1855 OF 2008
WITH
CIVIL APPLICATION NO. 7119 OF 2014

1. Maharashtra State Electricity
Dist. Co. Ltd., through its
Executive Engineer, MSEDCL,
Chapne Building, Anand Nagar,
Osmanabad.

2. The Junior Engineer,
Maharashtra State Electricity
Dist. Co. Ltd., Tq. Ambajogai,
District Beed.

..Petitioners

Versus

Mohan Sidram Holkar,
Aged 29 years, , Occ. Service,
R/o Pimpla (Dhaiguda), Tq. Ambajogai,
District Beed.

..Respondent

WITH
WRIT PETITION NO. 1858 OF 2008
WITH
CIVIL APPLICATION NO. 7118 OF 2014

1. Maharashtra State Electricity
Dist. Co. Ltd., through its
Executive Engineer, MSEDCL,
Chapne Building, Anand Nagar,
Osmanabad.

2. The Junior Engineer,
Maharashtra State Electricity
Dist. Co. Ltd., Tq. Ambajogai,
District Beed.

..Petitioners

Versus

Bhau Nagorao Jogdand,
Aged 29 years, Occ. Service,
R/o Pimpla (Dhaiguda), Taluka
Ambajogai, District Beed.

..Respondent

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Advocate for Petitioners : Shri Deshpande Dhananjay P.
Advocate for Respondents : Shri Shahane Parag
h/f Shri Shahane P.L.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 04, 2016
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ORAL JUDGMENT :-

1. Both these petitions have been admitted by this Court by Order dated 13.3.2009. This Court observed that the issue of regularisation would be subject to the final outcome of these petitions.

2. Shri Deshpande, learned Advocate for the petitioners has severely criticized the impugned judgment of the Industrial Court. Contention is that the respondents were engaged on job work basis. Whenever there was work available, they were offered the said work. They are not the employees of the petitioners and their complaints are not maintainable. Yet the lower Courts have held in their favour.

3. It is further submitted that merely because the respondents have been performing job work over a long time, would not mean that they should be regularized in employment. Mere completion of 240 days in continuous service cannot be a ground for granting regularisation.

4. Shri Deshpande submits that pursuant to the filing of these petitions, the proposals of the respondents have been forwarded for regularisation on the condition that they should waive their backwages as were granted by

the Labour Court. He, therefore, submits that the impugned judgment of the Industrial Court granting regularisation and permanency to the respondents in their ULP Complaints deserves to be quashed and set aside.

5. Shri Shahane, learned Advocate appearing on behalf of the respondents, who are identically placed, submits that these respondents have been working for several years in continuous services of the petitioners. Their continuous employment was proved before the Labour Court in their Complaints filed for challenging their termination. As on date of the impugned judgment, the respondents have put in about 19 years in service. Till today, they have been working for about 26 years. Within short period of time, they would be attaining the age of superannuation.

6. Shri Shahane further submits that this Court, by its order dated 4.3.2016, delivered in Writ Petition No.3858 of 2001 with Writ Petition No. 3903 of 2001 wherein the petitioners had challenged the order of reinstatement granted by the Labour Court and confirmed by the Industrial Court, has dismissed both the petitions. This Court has upheld the conclusions of both the lower Courts that the respondents had completed continuous service in each calendar year. Their reinstatement by the Labour Court has also been sustained. Continuity in service granted by the Lower Courts has also been upheld by this Court.

7. He, therefore, submits that both these petitions can be disposed off by considering the statement of the petitioners that the proposals of the

respondents for regularisation in service in the light of the impugned judgment of the Industrial Court have been forwarded. A time frame may be granted to the petitioners for deciding the said proposals.

8. I have considered the submissions of the learned Advocates.

9. This Court has upheld the order of reinstatement with continuity in service and backwages granted by the Labour Court as well as the Industrial Court in Writ Petition Nos.3858 ad 3903 of 2001. Both these petitions, filed by the petitioners, have been dismissed.

10. It has been concurrently held that the respondents have proved completion of 240 days in continuous service with the petitioners. Considering the same and the oral and documentary evidence adduced before the Industrial Court, I do not find that the impugned judgment of the Industrial Court could be said to be perverse or erroneous. Both these petitions being devoid of merits, are, therefore, dismissed. Rule is discharged.

11. Needless to state, the proposals forwarded by the petitioners for regularizing the services of the respondents shall be considered and shall be decided by the competent authority of the petitioners, within a period of three months from today, in due deference to the judgment of the Industrial Court, dated 9.1.2008, by which, both the complaints filed by the respondents, bearing Nos. 346 and 347 of 1999 have been allowed.

12. Pending Civil Applications, if any, stand disposed off.

(RAVINDRA V. GHUGE, J.)

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