

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

WRIT PETITION NO.11022 OF 2015

The Executive Engineer,
Ahmednagar Medium Project Division,
Sinchan Bhavan, Aurangabad Road,
Ahmednagar.

...PETITIONERS

-versus-

1 Sharad Vithoba Gore,
Age : 32 years, Occupation : Nil,
R/o Mirajgaon, Taluka Karjat,
District Ahmednagar.

2 The Executive Engineer,
Ahmednagar Irrigation Division,
Nagar-Aurangabad Road,
Ahmednagar.

...RESPONDENTS

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Advocate for Petitioner : Shri Tandale P.R.
Advocate for Respondent No.1/ Employee : Shri Barde Parag Vijay.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 04th August, 2016

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 I have heard the strenuous submissions of Shri Tandale,

learned Advocate for the Petitioner-Establishment, who has vehemently criticized the impugned award of the Labour Court dated 25.11.2014 and Shri Barde, learned Advocate for the Respondent-Employee, who has supported the impugned award.

3 The undisputed factors in this case are as under:-

- (a) The Respondent/ Employee had preferred Complaint (ULP) No.78/1997 on 10.03.1997 contending in paragraph 3(b) that he was working with the Petitioner as a daily-wage employee from 21.03.1983 till 30.06.1984.
- (b) The said complaint was held to be untenable in law as the cause of action of removal from service was assailed before the Industrial Court under Items 5, 6, 9 and 10 of Schedule IV of the MRTU & PULP Act, 1971.
- (c) On 12.12.2005, the said complaint was dismissed for being untenable.
- (d) Hence, the Respondent raised an industrial dispute after five years in 2010 and the reference was registered as Reference (IDA) No.23/2010 before the 2nd Labour Court at Ahmednagar.
- (e) The Petitioner fairly states that the Respondent-Employee was working from 21.03.1983 till 31.01.1985 i.e. for a period of

about one year and ten months.

- (f) By the impugned award, the Labour Court has granted Rs.75,000/- as compensation to the Respondent/ Employee and the Petitioner has been directed to pay the said amount along with interest at the rate of 10% per annum from 05.03.2010.
- (g) Considering the passage of time from the date of the effect of the award 05.03.2010 till today (six years), the interest awarded by the Labour Court would be about Rs.50,000/- thereby, bringing the total amount of compensation to Rs.1,25,000/-.
- (h) Sections 25(F) and 25(G) of the Industrial Disputes Act, 1947 have not been complied with by the Petitioner stating the reason that the Respondent was a temporary workman and hence, he was not entitled to any protection under the Industrial Disputes Act, 1947.

4 Considering the above, it is apparent that the Respondent had worked for one year and ten months, which can be rounded off to two years for the purpose of calculating compensation. It is also undisputed that while removing the Respondent from service, Section 25(F) was not complied with. Legally, non compliance of Section 25(F) would, therefore,

render the removal illegal.

5 The Honourable Apex Court in the following four cases has laid down the law that when an employee puts in a short spell of employment followed by a long duration of unemployment, compensation should be quantified at about Rs.30,000/- per year of service put in by him :-

- (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].*

6 The impugned award is dated 25.11.2014. This petition has been filed on 10.06.2015. The amount of compensation has not been deposited or paid to the Respondent- Employee and therefore, the interest as is granted by the Labour Court would bring the amount of compensation to about Rs.1,25,000/-.

7 In the light of the above, I do not find that the impugned award to the extent of grant of compensation could be termed as being perverse or erroneous.

8 Taking into account the facts as recorded above and in the light of the ratio laid down by the Honourable Apex Court in the above four cases, this Writ Petition is partly allowed. The amount of compensation of Rs.75,000/- will now be paid by the Petitioner-Management to the Respondent/ Employee within a period of TWELVE WEEKS from today and on that condition, clause (2) of the impugned award directing the Petitioner to pay interest at the rate of 10% per annum from 05.03.2010 till actual payment, shall stand set aside. The Petitioner, therefore, will not be required to pay the amount of interest approximately Rs.50,000/-. However, if the Petitioner is not able to pay the amount of compensation of Rs.75,000/- within 12 weeks as directed above, clause (2) of the operative part of the impugned award shall stand restored.

9 Rule is made partly absolute in the above terms.