

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8461 OF 2016

1. The State of Maharashtra,
Through Executive Engineer,
Public Works Division,
Ambajogai, Dist.Beed,

2. The Sub Divisional Officer,
Public Works Division,
Majalgaon, Dist.Beed

-- PETITIONERS

VERSUS

Shri Sampat Devrao Phande,
c/o Comb.Rajendra Vihare,
Secretary, Marathwada Raste Va
Patbandhare Sanghatana,
Medical College Compound,
Ambajogai, Dist.Beed

-- RESPONDENT

Mr.S.B.Joshi, AGP for the petitioners/State.
Mr.V.P.Golewar, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 17/10/2016

ORAL JUDGMENT :

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

2. The petitioners are aggrieved by the award dated 07/12/2015 by which the Labour Court has allowed Ref.(IDA) No.5/2004 filed by the respondent and has granted reinstatement with continuity of

service and 25% back wages from 01/08/1989.

3. I have considered the strenuous submissions of the learned Advocates for the respective sides. Mr.Golewar vehemently submits that the impugned award is legal, fair and proper and this Court should not interfere with the findings on facts in its supervisory jurisdiction. He further submits that though the Labour Court has deprived him of 25% back wages, he has accepted the said award.

4. I find that the respondent had proved before the Labour Court that he was working with the petitioners as a daily wager from 11/01/1987 till 01/08/1989. After putting in 2 years and about 7 months, the respondent was disengaged. He raised an industrial dispute after 15 years. The Labour Court has delivered the impugned award on 14/12/2015 which is practically more than 26 years after the respondent was disengaged.

5. It is apparently a case of a short spell of employment and followed by a long spell of 27 years of unemployment. In such facts of the case, the Hon'ble Apex Court has concluded that compensation at the rate of Rs.30,000/- per year of service would be appropriate relief rather than granting reinstatement with continuity

and back wages, in the following 4 judgments :-

“1. Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal [2013 LLR 1009],

2. Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh [(2013) 5 SCC 136],

3. BSNL Vs. man Singh [(2012) 1 SCC 558] and

4. Jagbir Singh Vs. Haryana State Agriculture Marketing Board [(2009) 15 SCC 327]. ”

6. It is apparent that for 15 years, the respondent did not question his disengagement. The Labour Court by granting 25% back wages even for the period of delay, apparently has delivered a perverse award. In the face of these facts, quantifying compensation in my view would be an appropriate relief.

7. As such, this petition is partly allowed. The impugned award is modified by setting aside the direction in clause 2 of the order. In lieu of reinstatement with continuity and 25% back wages, the petitioners shall pay an amount of Rs.75,000/- at the rate of Rs.30,000/- per year of service, taking into account that the respondent had put in 2 years and 7 months service, within a period

of 12 weeks from today, failing which the petitioners shall pay interest @ 6% p.a. on the said amount from the date of the award. Needless to state, if interest is to be paid on account of delay in payment, the concerned/responsible Officer of the Public Works Division, Ambajogai, Dist.Beed shall pay the said interest from his salary and the same shall not be paid from the State exchequer.

8. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)