

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2762 OF 2016

The Sarpanch Grampanchayat Office
Isarwadi-Borgaon,
Through Sarpanch,
Suwarna W/o. Dnyaneshwar Bobade .. Petitioner

Versus

Gangadhar S/o. Bhanudas Bobde .. Respondent

Shri R. R. Imale, Advocate for the Petitioner.
Shri R. K. Khandelwal, Advocate for the Respondent / Sole.

CORAM : S. V. GANGAPURWALA, J.
DATE : 18TH APRIL, 2016.

PER COURT :-

1. Mr. Khandelwal, the learned counsel appears for the respondent.
2. Mr. Imale, the learned counsel for the petitioner submits that, the award is passed ex-party directing reinstatement and payment of 50% back wages. According to the learned counsel, respondent has attained the age of superannuation on 01st January, 2009. The learned counsel submits that, the Gramsevak who was to look after the matter was transferred and this fact was not intimated to the new incumbent as such the petitioner could not attend the matter and bring all the facts on record. The learned counsel submits that, as per the voters list the respondent has attained the age of superannuation on 01.01.2009. The order of reinstatement is futile one. The respondent was appointed

purely on temporary basis and for village Borgaon. The work which the respondent was performing was not available with the petitioner. The order is erroneous.

3. Mr. Khandelwal, the learned counsel for the respondent submits that, the petitioner was served with the notice of the proceedings but failed to remain present. The petitioner is counting the age of the respondent on the basis of voters list which date is not genuine. The respondent has not attained the age of superannuation. The learned counsel submits that, work for which the respondent was engaged was of permanent nature. No error has been committed by the Court in passing the impugned award.

4. I have considered the submissions.

5. It is a fact that, the present petitioner did not attend the proceedings. The reason given by the petitioner is that the Gramsevak who was supposed to attend the proceedings was transferred and the new incumbent had no knowledge of the said proceedings and got the knowledge only after the award was passed. Considering the aforesaid fact I am inclined to grant one more opportunity to the petitioner however to adjust the equities I pass the following order -

ORDER

A] The impugned judgment and award is quashed and set aside.

B] The parties are relegated before the Labour Court, Aurangabad. The parties shall appear before the Labour Court, Aurangabad on 05th May, 2016.

C] The petitioner shall file his written statement within one month from the date of appearance.

D] The petitioner shall deposit Rs.20,000/- (Rs. Twenty Thousand only) before the Labour Court, Aurangabad within one month from today.

E] If, the amount as directed is not deposited then, the award passed by the Labour Court, Aurangabad shall stand confirmed.

F] In case, the amount as directed is deposited the Labour Court shall decide the Reference (IDA) No. 78 of 2007 afresh on its own merits, in accordance with law, expeditiously and preferably within six (6) months from the date of appearance of parties.

6. The Writ Petition is accordingly disposed of. No costs.

[S. V. GANGAPURWALA, J.]

sam/April.16