

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 4783 OF 2001

The Director,
Forest Development Corporation
East Division Nashik.

.. Petitioner

Vs.

Krishna Dhanaji Gawali.
Age Major, Residing at :
Daregaon, Post :- Nanduri, Tal. Kalwan,
Dist. Nashik

.. Respondent

Mr.M.S.Karnik, for the Petitioner.
None for Respondent.

***CORAM: N.M. JAMDAR, J.
Wednesday, 17 February 2016.***

Oral Judgment :

The Petition is pending since the year 2001 therefore, is taken up for consideration. None for the Respondent.

2 The Respondent was working with the Petitioner-Forest Development Corporation. He was employed by the Petitioner as a watchman from 1 March 1989. On 19 April 1992 his services were dispensed with. A reference was made in respect of termination of the Respondent to Labour Court Nashik, bearing Reference (IDA) No.89 of 1993. The Labour Court after considering the evidence

and rival contentions concluded that the Respondent had completed 240 days each year and his termination was without following Section 25-F of the Industrial Disputes Act and therefore, the Respondent was entitled to be reinstated with 50 per cent back wages. This award is challenged in the present petition. On 24 March 2004, rule was issued in this petition. The interim relief staying the award was granted. Thereafter on various occasions Respondent has not appeared.

3. The Court has recorded a finding of fact that the Respondent has completed 240 days in each year for period between 1 March 1989 to 19 April 1992 and nothing is shown as to how it is perverse. However it is settled law that *ipso facto* will not entitle the Respondent to be reinstated with back wages to the services of the Petitioner, which is a public body. It has been held by the Apex Court in various decisions that in such fact situation reinstatement with back wages need not automatically follow and suitable compensation can be awarded. The Respondent was working as a daily wager. He had last worked in the year 1992, even if reinstatement is granted on his earlier position, the Petitioner can always follow the procedure of law and remove the Respondent. Keeping such consequences in mind, the Apex Court has held that in such a case grant of compensation would be appropriate.

4. The Respondent worked on daily wages of ₹ 22.50 for a period of three years. Considering this position, I am of the opinion that grant of ₹50,000 would be an adequate compensation to be paid to the Respondent. In the circumstances, the Writ

Petition is disposed of by modifying the order dated 4 October 2000 and directing the Petitioner to pay an amount of ₹50,000 to the Respondent by way of compensation. Ordered accordingly. Rule is made absolute in above terms. No order as to costs.

(N.M.Jamdar, J.)