

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

WRIT PETITION STAMP NO.24231 OF 2016

**The Executive Engineer
Minor Irrigation Division**

Trimbak Road (Near PWD) Nashik

: Petitioner.

versus

Nana Kisan Paradhi

: Respondent.

Ms. Chaitrali A Deshmukh for the Petitioner.

CORAM : R. M. SAVANT, J.

DATE : 03rd October 2016

P.C.

1 The writ jurisdiction of this Court is invoked against the judgment and order dated 26/04/2016 passed by the learned Member of the Industrial Court, Nashik by which order the Complaint (ULP) No.19 of 2007 came to be allowed and resultantly the directions which are contained in the operative part of the impugned order came to be issued. The relevant direction is contained in clause (3) which reads thus :-

“The respondent is directed to extent the benefit of award of the Labour Court and also Kalelkar Settlement to the complainant to which is entitled under law immediately to enable the complainant to enjoy the benefit of award of the Labour Court as well as Kalelkar Settlement during his life time as complainant is already superannuated from service.”

2 The Respondent was therefore directed to be given the benefit of the Award of the Labour Court as also the Kalelkar Award. The Respondent herein was working as a Chaukidar with the Petitioner and was appointed as

such on 08/02/1982 on daily wages and continued to work till 25/10/1986 on which day his services were orally terminated. The said termination gave rise to an industrial dispute which resulted in a reference being made to the Labour Court being Ref (IDF) No.63 of 1988. Suffice it would be to state that the said Reference was answered in favour of the Respondent herein and he was directed to be reinstated with continuity of service with effect from 25/10/1986 i.e. from the date of his alleged oral termination. The judgment and order of the Labour Court is dated 30/12/1999. It seems that the Petitioner herein raised a challenge to the said Award passed by the Labour Court by filing a Writ Petition being No.5728 of 2002 which challenge failed as the said Writ Petition came to be dismissed. Thereafter the Review Petition filed by the Petitioner also came to be dismissed by a learned Single Judge of this Court. In the meantime the Kalelkar Award came to be announced which was in respect of the persons who are appointed on temporary and on daily wage basis who after completion of 5 years continuous service are entitled to be brought on Converted Regular Temporary Establishments ("CRTE" for short). Since the benefits of the said Kalelkar Award were not given to the Respondent, the Respondent filed the instant Complaint (ULP) No.19 of 2007 for non-implementation of the Award of the Labour Court dated 30/12/1999 as also for the benefits under the Kalelkar Award which were not being given to him. The said Complaint, as indicated above, has been allowed by the learned Member of the Industrial Court by the impugned judgment and order

dated 26/04/2016. The learned Member has directed the benefits of the Award of the Labour Court as also the benefit of the Kalelkar Award to be given to the Respondent.

3 The learned counsel for the Petitioner herein Ms. Deshmukh would contend that the Respondent having not worked for 5 years prior to his termination cannot be given the benefit of the said Kalelkar Award. It was also her submission that the Kalelkar Award envisaged a procedure to be followed before the benefit of C.R.T.E. can be given to an employee.

4 In my view, it is not possible to accept the said contentions. In so far as the first contention is concerned, there is no dispute about the fact that the Respondent was appointed in the year 1982 and terminated in the year 1986, however, the said termination was set aside by the Labour Court by Award dated 30/12/1999 and he was directed to be reinstated with back-wages. The challenge to the said Award by the Petitioner has failed. Hence on the basis of the Award passed by the Labour Court it would have to be held that the Respondent has continued in the services of the Petitioner for over 5 years. In so far as the Kalelkar Award is concerned, the benefits of CRTE under the said Award have to be given to all the employees who have worked for more than 5 years on daily wages and in whose favour there is an order passed by the Labour Court. The Respondent herein qualifies for the benefits of the

Kalelkar Award under the said category of employees also, as there is an Award passed by the Labour Court in his favour.

5 In my view, therefore, the impugned order passed by the learned Member of the Industrial Court Nashik directing the benefits of the Award passed by the Labour Court as also the benefits under the Kalekar Award to be given to the Respondent herein cannot be found fault with. No case for interference in the writ jurisdiction of this Court is therefore made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]