

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

WRIT PETITION NO. 4216 OF 1997

M/s Kinetic Engineering Limited,
Nagar Dhond Road, Ahmednagar.
Taluka and District Ahmednagar.

...PETITIONER

-VERSUS-

1 Vasant Govind Malvode,
Age : Major,
R/o At Post Arangaon,
Taluka and District Ahmednagar.

2 The Presiding Officer,
Seth Suratsingh Bhavan,
Samedi Road, Ahmednagar.

...RESPONDENTS

...
Advocate for Petitioner : Shri V.S. Bedre.
Advocate for Respondent : Smt.Renuka Ghule.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 05th January, 2017

Oral Judgment :

1 Respondent No.2 being a formal party, stands deleted.

2 The Petitioner Industry has challenged the award dated 25.05.1997 delivered by the Labour Court by which Reference (IDA) No.75/1988 was partly allowed and the Petitioner was directed to induct

the Respondent as a fresh employee. This award has been stayed by this Court while admitting the petition on 17.11.1997.

3 I have considered the strenuous submissions of the learned Advocates for the respective sides.

4 The documents placed before the Labour Court indicates that the Respondent was initially engaged as a Job Trainee from 10.12.1981 till 10.12.1982. Thereafter, he was issued with a fresh appointment order dated 09.06.1983 for a period of six months on purely temporary basis. His work was found to be unsatisfactory and hence, he was disengaged on 20.11.1983.

5 The Labour Court concluded that *“In fact as per law laid down by Supreme Court, the claim has to be rejected on the delay itself, however, considering the fact that the workman was terminated by his new employer Zilla Parishad, Ahmednagar, I am of the view that he may be given fresh appointment.”*

6 There can be no dispute that a trainee will not have the right to regularization unless the terms and conditions of appointment provide

for such contingency. After the Respondent completed one year, he was disengaged as a trainee. Subsequently, he was engaged as a temporary on 09.06.1983 and was disengaged on 20.11.1983. It is obvious from the reproduced portion of the Labour Court's conclusion, as above, that the Labour Court did not deem it appropriate to grant reinstatement to the Respondent/ Employee. This conclusion has not been challenged by the Respondent in this Court. In this backdrop, there could not have been an order directing the Petitioner to appoint the Respondent as a fresh employee.

7 Nevertheless, since the award was in his favour and the Petitioner has challenged the same in this petition, the Respondent is in litigation for the past 20 years. In somewhat similar circumstances concerning the same Petitioner Industry in (i) **Writ Petition No.669/1997** (*M/s Kinetic Engineering Limited vs. Ajay Irrappa Basapure*) decided on 13.10.2016, (ii) **Writ Petition No.2162/1997** (*M/s Kinetic Engineering Limited vs. Pramod Gangadhar Mohite*) decided on 08.12.2016 and (iii) **Writ Petition Nos.4215/1997 & 4117/2004** (*M/s Kinetic Engineering Limited vs. Narayan Venkatesh Bura*) decided today i.e. 05.01.2017, this Court had quantified compensation at the rate of Rs.40,000/- per year of service put in by the Respondent keeping in view

the ratio laid down by the Honourable Supreme Court in the following four cases:-

- (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].

8 In the light of the above, this Writ Petition is partly allowed. The impugned award dated 25.05.1997 is set aside and is replaced by the direction to the Petitioner to pay compensation of Rs.60,000/- (Rupees Sixty Thousand) to the Respondent within a period of SIX WEEKS from today, failing which the Respondent would be entitled for interest at the rate of 6% per annum from the date of the award dated 25.05.1997 till it is actually paid.

9 Rule is made partly absolute in the above terms.