

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

Writ Petition No. 1140 of 2003

District : Ahmednagar

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| <p>1. Vidi Kamgar Kalyan Pratisthan
Camel House, Nasik-Pune Road,
Nasik.</p> <p>2. Executive Director,
Sinnar Vidi Udyog Ltd.,
Camel House,
Nasik-Pune Road,
Nasik.</p> <p>3. Welfare Manager,
Vidi Kamgar Kalyan
Pratisthan,
Camel House,
Nasik-Pune Road,
Nasik.</p> | <p>.. Petitioners
(Original respondents)</p> |
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versus

Surekha Ramesh Joshi, resident of 2, Kalyan Peth, Bhatkalwada, At Post & Taluka Sinnar, District Pune.	.. Respondent (Original complainant)
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Mr. B.B. Yenge, Advocate, for the petitioners.

*Mrs. Renuka Ghule (Palve), Advocate, for the
respondent.*

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With

Writ Petition No. 0030 of 2006

District : Ahmednagar

Surekha w/o. Ramesh Joshi,
 Age 50 years,
 Occupation Nil, .. Petitioner
 R/o. 2, Kalyanpeth Bhatkalwada, (Original complainant)
 Junner, Taluka Junner, Dist. Pune

versus

1. The State of Maharashtra,
 through Secretary,
 Labour & Industrial Department,
 Mantralaya, Mumbai - 32.
2. The Executive Director,
 Sinnar Vidi Udyog Ltd.,
 Camel House,
 Poona-Nasik Road,
 Nasik.
3. Vidi Kamgar Kalyan Pratisthan
 Commerce Centre,
 2nd floor, Nehru Udyog Marg,
 Nasik.
4. Welfare Manager,
 Vidi Kamgar Kalyan Pratisthan,
 Commerce Centre, 2nd floor, .. Respondents
 Nehru Udyog Marg, Nasik. (Original respondents)

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*Mrs. Renuka Ghule (Palve), Advocate, for the
 petitioner.*

*Mr. S.N. Kendre, Asst. Government Pleader, for
 respondent no.01*

*Mr. B.B. Yenge, Advocate, for respondent nos.02
 to 04.*

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CORAM : RAVINDRA V. GHUGE, J.

DATE : 24TH FEBRUARY 2017

ORAL JUDGMENT :

01. In both these petitions, the management and the same employee are involved. In the first petition, the petitioners pray for setting aside the judgment and order dated 28.02.2001 delivered by the Labour Court, Ahmednagar, partly allowing Complaint (ULP) No. 08/1995, and the judgment of the Industrial Court, Ahmednagar, dated 29.11.2002, by which the Revision (ULP) No. 018/2001 filed by the Management was dismissed. The employee has challenged both the same judgments only to the extent of claiming full back wages.

02. By an interim order dated 11.06.2003, the order of reinstatement and grant of back wages was stayed. By a further order dated 23.07.2003, the first petition was admitted and interim relief was continued on the condition that the petitioner deposits Rs. 50,000/- in this Court. Though by order dated 14.11.2003 on Civil Application No. 9616 of 2003, this Court had allowed the employee to withdraw the amount, it is stated by Mrs. Ghule (Palve), learned Advocate for the employee, that the said amount has not been withdrawn though permitted.

03. I have considered the strenuous submissions of Mr. Yenge, learned Advocate for the Management and

Mrs. Ghule (Palve), learned Advocate appearing on behalf of the respondent - employee, who is also the petitioner in the second petition.

04. There is no dispute that the employee was working continuously before her termination dated 18.09.1990. After recording oral and documentary evidence, the Labour Court concluded that the termination was rendered illegal and was not in compliance of the law of retrenchment. The aspect of forced resignation was disbelieved and it was proved before the Labour Court that she was summoned to the Nasik office on 19.09.1990, was forced to sign resignation on the same day and the resignation was accepted immediately.

05. In the light of the above and in the light of the subsequent events, I find that both these petitions can be disposed of by quantifying compensation.

06. The employee had worked about for 03 years and was out of employment for 27 years. The Hon'ble Apex Court in similar circumstances, has delivered judgments in the following cases :-

- (1) ***Asst. Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal*** [2013 LLR 1009];
- (2) ***Asst. Engineer, Rajasthan Development Corporation & another Vs. Giram Singh*** [(2013) 5 SCC 136].

(3) ***BSNL Vs. Man Singh*** [(2012) 1 SCC 558]

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

07. The Hon'ble Apex Court concluded in the above said cases that where an employee has put in a short spell of employment which is followed by a long duration of unemployment, compensation of about Rs. 30,000/- per year of service put in by the employee would be more practicable rather than granting reinstatement with continuity after a long spell of unemployment.

08. Now, the Management has deposited Rs. 50,000/- in this Court on 21.08.2003. The said amount must have gathered interest. Considering the same, I deem it proper to quantify compensation to the extent of said amount of Rs. 50,000/- along with accrued interest which is lying in this Court, as a compensation to be paid to the employee in lieu of granting reinstatement, continuity and all consequential benefits.

09. Considering the above, the first petition filed by the Management is partly allowed by modifying the judgments of the Labour Court and the Industrial Court by converting the order of reinstatement with continuity and 50 % back wages into quantified compensation as stated above. Rule is made partly absolute.

10. Consequent to the above, the second petition filed by the employee stands dismissed. Rule is discharged.

11. The employee would be at liberty to withdraw the said amount as observed above along with the accrued interest by filing an application duly identified by the learned Advocate along with tangible evidence of identity in the form of Voter Card issued by the Election Commission.

(Ravindra V. Ghuge)
JUDGE

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