

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

WRIT PETITION NO. 2339 OF 1998

- 1 The State of Maharashtra.
- 2 The Sub Division Forest Officer,  
Central Building,  
Nagar Road, Beed.

...PETITIONERS

-VERSUS-

- 1 Sakharam Shankarrao Pimpale,  
C/o Trade Union Centre,  
Bashirganj, Beed.
- 2 The Labour Court,  
Aurangabad.
- 3 The Industrial Court,  
Aurangabad.

...RESPONDENTS

...  
AGP for Petitioners : Ms.S.S.Raut.

...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 03<sup>rd</sup> March, 2017**

Oral Judgment :

1 This Writ Petition is on the final hearing board dated 02.02.2017. The final hearing matters are taken up every Thursday. None appeared for Respondent No.1 on 02.03.2017. Yet, I adjourned the matter.

Even today, none appears.

2            Respondent Nos.2 and 3 are the Labour Court and the Industrial Court. Hence, they stand deleted from these proceedings.

3            The Petitioner is aggrieved by the judgment of the Labour Court dated 03.10.1989 by which Complaint (ULP) No.107/1987 has been allowed and Respondent No.1/ Employee is granted reinstatement with continuity and back wages. The Petitioner is also aggrieved by the judgment of the Industrial Court dated 17.02.1995 by which Revision (ULP) No.4/1993 filed by the Petitioner, has been dismissed.

4            I have considered the submissions of the learned AGP on behalf of the Petitioner.

5            In my view, a single glance at the impugned judgments would convince me that both the judgments are cryptic in nature, without assigning any reason and unsustainable in law.

6            In a single paragraph No.5, the Labour Court has allowed the complaint with the following observations:-

"5.        *The respondent being exparte, the complainant is*

*allowed to lead evidence by affidavit. The complainant has filed his affidavit at Exhibit U-3 and has proved the contents of the complaint and his case. The respondent being exparte, the evidence of the complainant goes unchallenged. I, therefore, pass the following order, answering all the points in affirmative, in favour of the complainant."*

7           It is, therefore, apparent that merely because the Petitioner did not appear in the proceedings, the Labour Court has allowed the complaint only on the basis of the affidavit Exhibit U/3 filed by the Respondent without there being any documentary or corroborative evidence before the Labour Court. The reinstatement with continuity and full back wages have been granted apparently without application of mind.

8           It was expected that the Industrial Court would notice the perversity in the impugned judgment. Surprisingly, the Industrial Court in a single paragraph order has dismissed the revision petition on the ground that as the judgment of the Labour Court is ex-parte, it has rightly relied upon the affidavit of the workman and allowed the complaint.

9           This Court, in the matter of *Abbott Laboratories (India) Ltd. v/s Shri J.D. Jamdar, Member, Industrial Court and another*, **1995(3) Bom.C.R. 425**, has concluded that the ULP complaint cannot be allowed

merely on the basis of the affidavit. Notwithstanding that the Respondent has not participated in the proceedings, every Court is expected to apply its mind to the oral and documentary evidence and only after being convinced that the employee has proved unfair labour practices having been committed by the employer, that the Labour Court or the Industrial Court could grant any relief.

10           In the light of the above, this petition is partly allowed. Both the impugned judgments of the Industrial Court and the Labour Court are quashed and set aside. Revision (ULP) No.4/1993 stands disposed of. Considering that the judgment of the Labour Court dated 03.10.1989 is delivered ex-parte without any evidence on record, the said judgment is also quashed and set aside.

11           To ensure that the ends of justice are met, Complaint (ULP) No.107/1987 could have been remitted to the Labour Court by imposing costs of Rs.25,000/- on the Petitioner for negligence on its part. However, I cannot ignore that the Respondent has claimed to be working only for one year from 05.04.1986 and was orally terminated on 07.06.1987. The Petitioner contends that the Respondent has not worked continuously. He was appointed on daily wages at the rate of Rs.7.60 per day on 05.04.1986. He was never terminated and he had never completed 240

days in continuous service.

12 In the above backdrop, even if the complaint is remitted to the Labour Court and even if the Respondent/original Complainant succeeds in proving the completion of 240 days, he has worked only for one year. From June, 1987, he is not in employment for the past almost 30 years. Naturally, there cannot be any reinstatement in the light of the following four judgments of the Honourable Supreme Court:-

- (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]**.

13 In the light of the above, no purpose would be served by remitting the matter to the Labour Court after 30 years. Instead, the costs can be quantified by way of compensation and the same can be paid to the Respondent so as to bring an end to this litigation.

14           The Petitioner shall deposit costs of Rs.25,000/- (Rupees Twenty Five Thousand) in this Court by way of a lump-sum compensation payable to the Respondent/ Employee in lieu of all claims arising out of his employment and non-employment. The said amount shall be deposited within EIGHT WEEKS from today. Thereafter, the Respondent would be at liberty to withdraw the said amount by making an application duly identified by his Advocate along with a recent photograph and tangible evidence of his identity in the form of the Election Commission's Voters Identity Card.

15           Rule is made partly absolute in the above terms.

*kps*

**(RAVINDRA V. GHUGE, J.)**