

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

**WRIT PETITION NO. 3824 of 1998**

The State of Maharashtra  
through Executive Engineer,  
Public Works Division,  
Ahmednagar.

**...PETITIONER  
(Ori. I party)**

**VERSUS**

Popat Rajaram Gaikwad,  
R/o. Mahi-Jalgaon,  
Tq. Karjat, Dist. Ahmednagar.

**...RESPONDENT  
(Ori. II party)**

...  
Mr. S.P.Tiwari, AGP for petitioner.  
Respondent (sole) served.  
...

**CORAM: P.R.BORA, J.**

**DATE : April 19th, 2017.**

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**ORAL JUDGMENT:**

1. Heard learned A.G.P. appearing for the petitioner State. Though the respondent is served, he has not entered his appearance either in person, or

through Counsel.

2. By filing the present petition the petitioner has challenged the award dated 21st of June, 1997, passed by the first Labour Court, Ahmednagar, in Reference (IDA) No.159/1993.

3. The respondent workman had raised a dispute before the Deputy Commissioner of Labour, Nashik, as about his termination by the petitioner w.e.f. 1st of June, 1986. The dispute so raised was forwarded by the Deputy Commissioner of Labour, Nashik, under Section 10(1) read with Section 12(5) of the Industrial Disputes Act, 1947, for adjudication to the Labour Court, at Ahmednagar. The dispute which was referred for adjudication was as below:

" Shri Popat Rajaram Gaikwad should be reinstated with full backwages and continuity of service with effect from 1/6/1986."

4. It was the contention of the respondent workman that though he was in continuous service of the petitioner, and has continuously worked for more than 240

days in the preceding year, his services were terminated abruptly without following due process of law. As against it, it was the contention of the petitioner that the respondent workman was not recruited by following due process of law and was used to be engaged by the petitioner as and when required for a temporary period and further that he did never work continuously for a period of more than 240 days in one year and, as such, was not entitled for any relief as was claimed. After adjudication the Reference Court passed the following award:

" Reference is partly allowed.

The first party is directed to take the services of second party workman Shri Popat Rajaram Gaikwad as a fresh as a Mile Coolie by taking his name in the seniority list. In the circumstances, both the parties are directed to bear their own costs."

5. Aggrieved by the award so passed, the State has filed the present writ petition. An ad interim stay was granted by this Court in terms of prayer clause (D) on 1st of September, 1998. Vide prayer clause D, the petitioner had prayed for stay to the operation and execution of the impugned judgment and award pending hearing and final

disposal of the writ petition.

6. From the record it is revealed that the respondent workman has not appeared in the matter though he is duly served. He has not made any attempt to get vacated the interim order passed by this Court on 1.9.1998, nor any application seems to have been filed by the respondent workman invoking the provisions under Section 17(B) of the Industrial Disputes Act seeking directions against the petitioner to pay him the wages during the pendency of the writ petition.

7. In the above circumstances, it does not appear to me that there is any propriety in going into the merits of the contentions raised in the writ petition after lapse of 19 years. Even otherwise, from the material on record, it is revealed that the respondent workman had failed in establishing that he has worked for more than 240 days continuously in any of the preceding years of his termination. However, as I stated earlier, I do not wish to enter into the merits of the matter for the reason that the alleged termination is of the year 1986 i.e. prior to

about 31 years. No information is available on record whether respondent workman is interested in getting executed the order passed in the Reference. As noted above, the order passed in the award was stayed by this Court and the stay had continued till date for a period of about 19 years.

The present Writ Petition, therefore, can be disposed of with the direction to the petitioner Department that if the respondent makes himself available and seeks work from the petitioner, and if the work is available and the respondent is found eligible to do the said work, the work may be provided to him and the wages may be paid to him in accordance with the present rate.

The writ petition stands disposed of with the observations as aforesaid. Rule made absolute accordingly.

(P.R.BORA)  
JUDGE

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