

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

WRIT PETITION NO.2264 OF 2003
WITH
CIVIL APPLICATION NO.1653 OF 2004

The State of Maharashtra.
Through:
The Deputy Director,
Social Forestry Division,
Shahunagar, Beed.

...PETITIONER

-VERSUS-

Ankush Raghunath Kardile,
Age : 37 years, Occupation : Daily Wage Labour,
Trade Union Centre, Bashirganj,
Beed.

...RESPONDENT

...
Shri S.S.Dande, AGP, for the Petitioner/ State.
Shri P.L.Shahane, Advocate for the Respondent.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th May, 2017

Oral Judgment :

1 The learned AGP and the learned counsel for the Respondent
requested for taking this matter for final hearing today.

2 The Petitioner/ State is aggrieved by the judgment and order

dated 15.01.2003 delivered by the Industrial Court by which Revision (ULP) No.87/1997 filed by the Respondent/ Employee was allowed and the Respondent was granted continuity of service and 50% of the back wages from March, 1986 till September, 1996.

3 I have considered the strenuous submissions of the learned AGP, who has termed the impugned judgment as being perverse and erroneous.

4 The learned counsel for the Respondent places reliance upon the judgment of the Honourable Supreme Court in the matter of *Chief Conservator of Forests v/s Jagannath Maruti Kondhare*, **AIR 1996 SC 2898 : (1996) 2 SCC 293**, to contend that the work performed by the Respondent which is identical to the work performed by permanent employees, should earn the Respondent the wages at par with the permanent employees.

5 The Labour Court, while allowing the ULP complaint of the Respondent by judgment dated 07.08.1997 had directed the Petitioner to continue the services of the Respondent, but without continuity and back wages. The Respondent is in employment today and the direction of reinstatement has already been implemented.

6 It is stated that he must be nearing his age of retirement in another eight years and is in employment pursuant to the orders of the Labour Court and the Industrial Court.

7 The Honourable Supreme Court in the matter of *Chief Conservator of Forests case (supra)*, has concluded that even if the posts are not available, an employee would be entitled for parity in wages after comparing the nature of work performed by him with the nature of work performed by similarly/ identically situated permanent employees.

8 The Industrial Court has granted continuity in service and keeping in view that the Respondent has been reinstated and is in employment, I do not find that the said direction which is equitable needs to be interfered with.

9 The learned AGP has strenuously opposed the grant of back wages. The record reveals that the last drawn wages of the Respondent were about Rs.215/- per month. If the back wages are calculated purely on the said paltry amount, the Respondent would be entitled to about Rs.12,500/- despite being in litigation for the last 31 years. Gradual revision in the daily wages needs to be considered in this backdrop and

the rigours of litigation faced by the Respondent/ workman. I, therefore, find that quantifying the back wages which are otherwise Rs.12,500/- as per the 1986 rates, to a lump sum amount of Rs.25,000/- would meet the ends of justice.

10 In the light of the above, this Writ Petition is partly allowed and the direction of the Industrial Court to pay the back wages is modified with the direction to pay a lump sum amount of back wages of Rs.25,000/- (Rupees Twenty Five Thousand) to the Respondent for the period mentioned in the impugned judgment. The said amount of Rs.25,000/- shall be paid by the Petitioner to the Respondent within a period of TWELVE WEEKS from today. Needless to state, the direction of reinstatement and continuity granted by the Industrial Court is maintained. Rule is partly made absolute in the above terms.

11 Pending Civil Application stands disposed of.