

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 943 OF 1998

Shri Ratnakant Doulat Patole,
Aged 28 years, Occ. Service
at Rahuri Sugar Factory,
Post Shivajinagar, Tq. Rahuri
District Ahmednagar.

..Petitioner

Versus

The State of Maharashtra
Through the Executive Engineer,
Public Works Department,
At/Tq. Sangamner,
District Ahmednagar.

..Respondent

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AGP for Respondents: Shri S.P.Tiwari

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 16, 2017
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ORAL JUDGMENT:-

1. None for the petitioner. I have heard the learned AGP for the respondents.

2. The petitioner / employee is aggrieved by the impugned award dated 29.3.1994, by which, his Reference is partly allowed and the respondent is directed to provide work to the petitioner on priority basis considering that the second party has worked with the first party from 1.5.1986. Continuity of service and backwages have been denied and hence this petition.

3. I have considered the grounds set out in the petition, the averments made therein and the impugned award.

4. Before the Labour Court, the petitioner had filed an application calling for the muster rolls and the pay sheets for the period 1.5.1985 till 31.3.1987 since the petitioner claimed that he had worked during this period with the respondent. The respondent produced the Muster Rolls from March 1987 to May 1987 and submitted a chart Exhibit C/6 indicating the number of days worked by the petitioner. According to the said chart, he had put in 130 days in between May 1986 till December 1986 and has worked for 16 days in 1987. The Labour Court, however, drew an adverse inference since the respondent did not produce all the Muster Rolls as per the order of the Labour Court dated 17.7.1997. Since the said order was defied, the Labour Court drew an adverse inference and based on such adverse inference, it has partly allowed the Reference.

5. There is no dispute that the respondent - Public Works Department has not challenged the impugned award, directing the said Department to provide work to the petitioner on priority basis and pay costs of Rs.1,000/-.

6. It is, therefore, evident that the petitioner neither produced

any documents, nor has the respondent furnished all the Muster Rolls with reference to the period of work of the petitioner.

7. Since the impugned award was not stayed, the petitioner may have worked as per the directions of the Labour Court. Learned AGP is unaware as to whether the petitioner is in employment.

8. Considering the above, I do not find any reason to interfere with the impugned award. The petition being devoid of merits is, therefore, dismissed.

9. It is, however, made clear that if the petitioner has been reinstated by the respondent and has been working with the said Department, after the filing of this petition, the petitioner would be entitled to such service benefits as may be available to him in law.

10. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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