

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5072 OF 1998

The Zilla Parishad, Dhule

Petitioner

Versus

Pratap Pitambar Patil

Respondents

Mr. M.N. Desale advocate for the petitioner

Mr. M.M Jadhav h/f Mr. S.P. Shah for Respondent

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

(Date : 30th June, 2017.)

PER COURT :-

1 This matter was heard on 23.6.2017 and at the request of the petitioner was posted today for passing orders.

2 Learned counsel for the petitioner submits that, as this Court had not granted any interim relief to the petitioner, the Respondent was reinstated in service and was transferred to Navapur Taluka under Nandurbar Zilha Parishad in 1998 due to the division in the erstwhile Dhule district. He further submits that the respondent has now retired from service, after attaining the age of 58 years.

3 The petitioner, in this petition, has challenged the Judgment of the Labour Court dated 22.3.1993, by which the Complaint ULP. No.297/1990 filed by the respondent was allowed and he was

granted reinstatement with continuity of service and full back wages. The petitioner is also aggrieved by the Judgment of the Industrial Court dated 27.6.1996 by which the Revision ULP. No. 265/1993 filed by the petitioner has been dismissed.

4 After considering the extensive submissions of learned advocates for the respective sides, I have gone through the record available.

5 The petitioner has challenged the Judgment of the Labour Court, primarily on the ground that, the respondent was working under the Employment Guaranty Scheme (EGS). This issue has been settled by this Court, concluding that employees working under the EGS cannot approach the Labour Court or the Industrial Court and claim reinstatement or continued employment or regularization. Working under EGS is distinguishable from working for EGS. The mustering assistants who were working for the EGS, for marking the attendance of the EGS employees, were treated differently and the issue has been decided by the Honourable Apex Court, after the scheme for regularization of services of the mustering assistants by Government Resolution dated 1.12.1995 was approved by the Honourable Apex Court.

6 In the light of the above, on scrutinizing the evidence led by both the sides before the Labour Court, it is apparent that though the petitioner took a stand that the respondent was working under the EGS, no evidence was brought on record. In fact, in the cross-examination of the petitioner's witnesses, he has admitted that the appointment orders at Exh.U-11 till U-22 did not reflect that, the respondent was appointed under the EGS.

7 It requires no debate that the State of Maharashtra has appointed Tahsildars for implementing the EGS work. They issued appointment orders with specifically mentioning that, the concerned person is working on EGS. Payment of EGS workers is made on vouchers, which is signed by the Tahsildar, EGS on behalf of the District Collector and the payment vouchers also indicate the same. Attendance record is separately maintained for the EGS workers. If at all the respondent was working under the EGS, the petitioners could have produced the entire record before the Labour Court. Having failed to do so, leads to the conclusion that the respondent was not working under the EGS.

8 In the light of above, the impugned Judgments of the Labour Court as well as of the Industrial Court cannot be termed

as being perverse or erroneous.

9 Learned counsel for the petitioner has stated that, after reinstatement, the respondent continued in employment with the Nandurbar Zilha Parishad and has since superannuated. I need not deal with the said issue since if the respondent has any grievance against the Nandurbar Zilha parishad, he would be at liberty to raise such grievance by resorting to available legal remedies.

10 Considering the above, this petition is disposed of.

11 Rule is discharged.

(RAVINDRA V. GHUGE , J)