

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2486 OF 2014
(The State of Maharashtra and another Vs.Syed Jafar Syed Gulab)

Mr.N.T.Bhagat, AGP for the petitioner/State.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 14/02/2017

PER COURT :

1. Despite service on the respondent, none appears.
2. Pursuant to the order of this Court dated 15/09/2014, the petitioner has deposited Rs.1,21,362/- in this Court considering the direction of the Labour Court to pay compensation of Rs.1,00,000/- with 12% interest, if not paid within 1 month, in lieu of reinstatement, continuity and back wages.
3. The grievance of the petitioner is that though the respondent was working on E.G.S., the Labour Court has granted compensation for an amount of Rs.1,00,000/-. The law is laid down by this Court in Arvind G.Chaudhari Vs.Dhanraj Natthu Patil, [2008(6) Mh.L.J. 746], that a claim by an employee working on E.G.S. was not maintainable before the Labour Court.

4. The respondent had approached the Labour Court in Ref.(IDA) No.57/2000 alleging that after he had worked from 01/08/1986 till 20/04/1995, he has been terminated without compliance of Section 25-F and 25-G of the I.D.Act. The petitioner took a stand through its written statement that the respondent was working on E.G.S. However, no document was produced before the Labour Court to indicate that the respondent was in fact not a workman, but engaged on E.G.S.

5. Though the learned AGP has strenuously criticized the impugned award, this Court cannot exercise its jurisdiction only to enable the petitioners to cure the deficiencies at its end in the trial before the Labour Court and fill up the lacuna left in the recording of oral and documentary evidence.

6. The Labour Court has noted in paragraph No.12 of the impugned judgment that the petitioner/ Department did not place on record the muster rolls from 1993 till 1995. Those muster rolls for the period 1987-1993 produced on record at Exh.C-11 to C-63, did not indicate that the respondent was working on E.G.S. The Labour Court has concluded that these exhibited documents indicated that the respondent was working as a 'Watchman' on the establishment of the petitioner on daily wages.

7. Learned AGP submits that he is not aware whether the respondent has preferred any challenge to the impugned award by which he has been deprived of reinstatement, continuity and back wages and instead is granted compensation.

8. Considering the above and keeping in view that the respondent has not preferred a challenge to the impugned award, this petition, being devoid of merit, is therefore, dismissed. Rule is discharged.

9. The respondent is at liberty to withdraw the said amount deposited in this Court alongwith accrued interest, if any, in the light of the statement of the learned AGP that the compensation has not been paid directly to the respondent prior to being deposited in this Court.

(RAVINDRA V. GHUGE, J.)