

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

WRIT PETITION NO. 8748 OF 2014

The Executive Engineer,
Zilla Parishad,
Construction Division No.2,
Beed, District Beed.

...PETITIONER

-VERSUS-

Smt.Mudrikabai w/o Atmaram Kapre,
Age : Major, Occupation : Household,
R/o Santa Colony, Tq.Kaij,
District Beed.

...RESPONDENT

...
Advocate for Petitioner : Shri Suryawanshi Prashant D.
Advocate for Respondent : Shri N.R.Thorat h/f Shri Thorat R.D..
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 07th February, 2017

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2 The Petitioner is aggrieved by the award dated 18.02.2014 by which the Labour Court, Aurangabad has answered Reference (IDA) No.25/2001 partly in the affirmative and instead of granting the

reinstatement in service, has directed payment of Rs.15,000/- towards the compensation for the illegal retrenchment.

3 Shri Suryawanshi, learned Advocate for the Petitioner, submits that the Respondent/ Employee has not challenged the said award in this Court by which he has been deprived of reinstatement, continuity and back wages.

4 Shri Suryawanshi has strenuously criticized the impugned award. The contention is that there was no iota of evidence before the Labour Court which could have supported its conclusions. Not a single document was on record to indicate the tenure of employment of the Respondent. Merely by relying on the oral words of the Respondent, the reference has been partly allowed. He, therefore, submits that in the absence of any evidence, the impugned award is rendered unsustainable.

5 Shri Thorat, learned Advocate for the Respondent, has defended the impugned award. He submits that the application Exhibit U/5 seeking production of documents was filed. The Labour Court has allowed Exhibit U/5 by order dated 15.02.2007 and the documents like the muster rolls, pay slips, etc. were directed to be produced. The Petitioner intentionally has held back these documents, has disobeyed the

order of the Labour Court and has declined to produce the said documents. Hence, an adverse inference was drawn.

6 I have considered the submissions of the learned Advocates as have been recorded herein above.

7 There is no dispute that the Respondent relied on her affidavit in lieu of oral evidence Exhibit U/19. Based on the contents in the statement of claim and the affidavit, she claimed to have worked continuously from 10.05.1989 to 04.05.1991.

8 Per contra, the Petitioner examined the witness at Exhibit C/7, who stated that the Respondent was not orally terminated. She herself stopped reporting for duties. She has not been working continuously in a period of two years.

9 Despite the fact situation as above, it cannot be ignored that the Petitioner was directed to produce the documents. This direction of the Labour Court was not complied with. Hence, an adverse inference was drawn. I do not find that the Labour Court has committed any error considering the conduct of the Petitioner.

10 The fact remains that the Respondent has accepted the award of the Labour Court and though she has been deprived of reinstatement and continuity in service, she has not challenged the said award.

11 Considering the above, I do not find that the challenge posed by the Petitioner, for the reasons recorded herein above, deserves to be entertained. This Writ Petition being devoid of merit is, therefore, dismissed. Rule is discharged.

kps

(RAVINDRA V. GHUGE, J.)