

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.9799 OF 2017
(Chandrakant Yashwant Chaudhari Vs. The Municipal Corporation,
Jalgaon)
IN
WRIT PETITION NO.4918 OF 2016

Mr.V.P.Raje, Advocate for the applicant.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 20/11/2017

PER COURT :

1. I have considered the submissions of the learned Advocate for the applicant and have gone through the 6 grounds formulated by him in the memo of the review application.

2. Learned Advocate for the applicant strenuously submits that the applicant should be granted reinstatement with continuity and some back wages from 1992.

3. I have considered the submissions in the light of the record available. There is no dispute that the applicant had worked as a 'Daily Wager' in between 1991 to 1992. There is no appointment order employing him as a Class IV employee on the rolls of the

Corporation. He alleged that he was illegally terminated by the Corporation from 1992 and raised an industrial dispute in 2012. By the order of the appropriate Government dated 23/07/2012, the industrial dispute was referred to the Labour Court.

4. The Labour Court had set aside the oral termination dated 01/12/1992 and granted reinstatement with continuity and back wages from 16/12/2011. This naturally would amount to granting fresh appointment to the applicant by the Labour Court, which is impermissible as the Labour Court can not step into the shoes of the employer.

5. While considering the petition of the Corporation, when the order under review dated 22/07/2016 was passed, it was noted that the petitioner had worked intermittently between 1991 and 1992. The industrial dispute was raised in 2012. As such, he had worked intermittently between 2 years and was out of employment for 24 years when the judgment under review was passed. This Court, therefore, observed in paragraph Nos. 9 to 12 of the judgment under review as follows :-

“9 I also find that besides the affidavit in lieu of examination-in-chief, there was nothing before the Labour Court

to consider whether, the Respondent had factually worked for two years. In this backdrop, the impugned award deserves to be set aside.

10 It, however, cannot be ignored that the Respondent has been granted reinstatement with continuity in service. Section 17-B of the Industrial Disputes Act, 1947 entitles the employee to monthly wages till this petition is decided. The impugned award is dated 20.06.2015 and must have been published in a couple of weeks thereafter by the Labour Court. The writ petition is filed on 22.04.2016.

11 In the light of the above, while allowing this petition, I deem it proper to grant compensation to the Respondent considering the view taken by the Honourable Apex Court in the following four matters:-

(a) *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-DTirorivision, Kota Vs. Mohanlal, [2013 LLR 1009]*;

(b) *Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh, [(2013) 5 SCC 136]*;

(c) *BSNL Vs. Man Singh, (2012) 1 SCC 558*; and

(d) *Jagbir Singh Vs. Haryana State Agriculture Marketing Board, [(2009) 15 SCC 327]*.

12 As such, this Writ Petition is partly allowed. The

impugned award dated 20.06.2015 is modified and the Petitioner Corporation is directed to pay compensation of Rs.50,000/- (Rupees Fifty Thousand) to the Respondent/ Employee for having worked for two years and in lieu of reinstatement, continuity of service and all benefits incidental to reinstatement in service. The amount as directed above shall be paid to the Respondent within a period of TWELVE WEEKS from today, failing which, interest @ 6% p.a. shall be paid.”

6. Considering the above, I do not find that the order under review suffers from any error. The review application is devoid of merit and is therefore rejected.

7. Learned Advocate for the applicant fairly makes a statement that the deficit court fees of Rs.105/- will be deposited by him within 4 weeks.

(RAVINDRA V. GHUGE, J.)