

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5382 OF 2016

Sampati Maroti Yadav
Age 54 years, Occ. Nil
R/o Kolpimpri, Tq. Dharur,
District Beed.

..Petitioner

Versus

1. Chief Executive Officer,
Zilla Parishad, Beed

2. Sarpanch,
Grampanchayat, Kolpimpri,
Tq. Kaij, Dist. Beed.

..Respondents

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Advocate for Petitioner : Shri Shahane P.L. and
Shri Shahane Parag

Advocate for Respondent 1 : Shri Suryawanshi P.D.

Advocate for Respondent 2 : Shri Golewar V.P.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: July 27, 2017

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ORAL JUDGMENT :-

1. Heard learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. While issuing notice on 10.10.2016, I had observed in my order as under:-

“1. The petitioner is aggrieved by the judgment and award dated 29.9.2014 delivered by the Labour Court. Though is Reference (IDA) No.51/2001 is partly allowed, the Labour Court has merely granted compensation of s.20,000/- without reinstatement, continuity and bck wages.

2. It is admitted that the petitioner was working as a Watchman from 01.03.1990 upto 01.09.1992 which is about two years and six months. He is out of employment ofr the past 24 years.

3. In my view, even if he compensation is to be granted in lieu of reinstaement, continuity and back wages, the view taken by the Honourable Supreme Court in the followig four cases will have to be followed:-

(a) *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohan Lal [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].”

5. Shri Shahane, learned Advocate for the petitioner submits that since he has been in litigation for more than two decades and this is a second round of litigation before this Court, he prays for reinstatement in service and in the alternative, he prays for compensation of Rs.1,00,000/- per year of service put in by him with the respondents.

6. Learned Advocates for the respondents contend against each others that the compensation has to be paid by the other respondents. In short, the Zilla Parishad claims that the Gram Panchayat should pay the compensation and the Gram Panchayat submits that the Zilla Parishad should pay the compensation.

7. Both the learned Advocates for the respondents are united only on one aspect that the compensation awarded by the Labour Court is appropriate and looking at the source of revenue of these respondents, they cannot be equated with private industries or establishments for granting heavy compensation.

8. After considering the submissions of the learned Advocates, I find that this is the second round of litigation between the parties upto this Court. Reference (IDA) No.51 of 2001 was earlier dismissed only for the reason that the Industrial Dispute was raised after nine years of the disengagement of the petitioner. Since there was no limitation to entertaining such reference cases by the Labour Court and since the passage of time did not amount to an exorbitantly long delay, I had remitted the reference to the Labour Court. The judgment delivered by the Honourable Apex Court in Mohanlal (supra) was also brought to the notice of the Labour Court. Yet, while allowing the reference partly and while refusing reinstatement with continuity in service, the Labour Court has granted a compensation of Rs.10,000/- per year of service and as such, has quantified the compensation at Rs.20,000/-.

9. Though Shri Shahane strenuously contends that reinstatement is the appropriate relief to be granted to the petitioner, I am unable to accept his contention keeping in view the law laid down by the Honourable Apex Court in the four judgments referred to herein above. As the petitioner has put in only two and half years in service and since he is now out of employment for the past about 25 years, granting reinstatement

would be inappropriate, impractical and would create an enormous burden on the respondents as they are State instrumentalities who are always short of funds.

10. The Honourable Apex Court in the case of Rashtrasant Tukdoji Maharaj Technical Education Sanstha, Nagpur Vs. Prashant Manikrao Kubitkar [AIR 2017 SC 2482], has concluded that as the appellant had put in 2 years and 3 months of service, followed by unemployment for 13 years, compensation of Rs.1,00,000/- was held to be commensurate. In the instant case, the petitioner has worked for two years and six months.

11. Considering the above, I hereby modify the impugned award only to the extent of the quantum of compensation. The petitioner shall be entitled for a compensation of Rs.1,00,000/-. Since the Labour Court has directed both the respondents to pay compensation in equal share and as none of them has challenged the said direction, the said amount of compensation of Rs.1,00,000/- shall be paid by both the respondents in equal share within three months from today, failing which, the said amount shall carry interest at the rate of 6% per annum from the date of the award. In that situation, the quantum of interest shall be paid by the Chief Executive Officer, Zilla Parishad and the

Sarpanch of the Gram Panchayat from their own pocket and not from the State exchequer.

12. This petition is partly allowed. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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