

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:**NAGPUR BENCH : NAGPUR****Writ Petition No. 4486 of 2015****[The Horticulture Officer, Distt. Amravati, now Sub-Divisional
Agricultural Officer, Achalpur & another Vs. Ramdas Irbhanji
Bhatkar & two others]**

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.****Court's or Judge's orders**

Mr. Balpande, Adv., for the petitioners.

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CORAM : A. S. CHANDURKAR, J.**DATE : 31st March, 2017**

Heard Shri Balpande, learned Asstt. Govt. Pleader
for the petitioners.

The challenge in this Writ Petition is to the
judgment of the Industrial Court dated 30th September,
2014 thereby dismissing the Revision Petition filed by
the petitioners and confirming the order passed by the
Labour Court, by which the complaint filed by the
respondent no.1 has been allowed.

It is the case of the respondent no.1 that he was
appointed as a Night Watchman on daily wages from

2nd July, 1986. He worked continuously without any break till 30th August, 1989 when his services came to be terminated on the ground that there was breach of provisions of Sections 25F and 25G of the Industrial Disputes Act, 1947, while doing so. The respondent no.1 filed a complaint before the Labour Court.

The petitioners denied the case of the respondent no.1 and according to them he had not worked continuously for 240 days to claim any relief. A plea was also taken that the petitioners' department was not an industry.

Before the Labour Court, the respondent no.1 examined himself and stated that he had worked continuously for the period from 2nd July, 1986 till 25th August, 1989. The petitioners examined the Horticulture Officer at Exh.21. He placed on record a chart showing the working days of the respondent no.1 at Exh.22. Said witness admitted that the respondent no.1 had worked from 2nd July, 1986 onwards. Another Horticulture Officer was also examined by the petitioners and he placed on record various muster rolls.

The Labour Court after considering the entire evidence on record held in paragraph 7 of its judgment that it was proved that the respondent no.1 had worked for 339 days. It further held that the stand that the respondent no.1 had voluntarily abandoned his job was

held to be not proved. Thereafter, a finding was recorded in paragraph 13 that the petitioners were carrying out systematic activities and the defence as raised that the Department was not an industry was not proved. Hence, by order dated 26th February, 2008, the complaint was partly allowed, directing reinstatement on the former post, but without back wages. The Industrial Court in exercise of revisional jurisdiction affirmed the order of the Labour Court.

Shri Balpande, learned Asstt. Govt. Pleader for the petitioners, submitted that the evidence on record was not sufficient to come to the conclusion that the respondent no.1 had completed 240 days of service. According to him, the respondent no.1 had voluntarily left his job even before completing 240 days' service. He further submitted that the petitioner - Department was not an industry and hence, respondent no.1 was not entitled for any relief.

Having perused the evidence led by the parties as well as the orders passed by the Labour Court and the Industrial Court, I find that said orders are based on the evidence on record. After considering the chart at Exh.22, a finding has been recorded that the respondent no.1 had served for 339 days and hence there was breach of provisions of Section 25F of the said Act before discontinuing his services. The defence that the Department was not an industry has not been proved by

bringing on record any such material in that regard. Hence, I do not find that any case has been made out to interfere in writ jurisdiction.

By clarifying that the order passed by the Labour Court with regard to reinstatement with continuity in service would have to be read in consonance with the post held by the respondent no.1, the Writ Petition stands dismissed with no orders as to costs.

Judge