

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAW) NO. 168 OF 2017

IN

WRIT PETITION NO. 3134 OF 2014

(Maharashtra State Power Generation Company Ltd. Khaparkheda...VS...Shri Deepak Motiram Dhore
and Another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R. E. Moharir, Advocate for Petitioner.
Shri M. V. Mohokar, Advocate for Respondent No.1.
Shri A. A. Madiwale, A.G.P. for Respondent No.2.

CORAM : S.C.GUPTE, J.

DATED : 22nd AUGUST, 2017.

Heard learned counsel for the parties.

This civil application is taken out under Section 17-B of the Industrial Disputes Act, 1947. The application is on the basis that the petitioner (management) has challenged an award of reinstatement of service passed by the Labour Court in favour of the applicant herein (complainant employee, who is original respondent to the writ petition). It is submitted that Rule was issued on 6th July, 2015 in the petition and interim stay of reinstatement was granted by this Court. It is submitted that the applicant does not have any regular job or gainful impleadment and is entitled to wages under the provisions of Section 17-B of the Industrial Disputes Act. In reply, it is pointed out by the original petitioner that the petitioner has been employed with one Bhawna Energy Infrastructure Private Limited at Khaparkheda from 18th April, 2011 as a contract

worker and is getting a remuneration of over Rs.10,000/- per month. If one has regard to the fact that the applicant herein was employed with the petitioner on daily wages and his monthly remuneration did not come up to Rs.10,000/- per month, there is no case for award of any compensation to him under Section 17-B of the Industrial Disputes Act.

Learned counsel for the applicant relies on his counter affidavit dated 18.04.2017, where the applicant has relied on pay slips of three permanent employees, who have been drawing a monthly salary of over Rs.60,000/-. Relying on the law laid down by the Hon'ble Supreme Court in this behalf, learned counsel submits that though his client earns over Rs.10,000/-, the difference between his remuneration and the salary of these permanent employees should be paid to him under Section 17-B of the Industrial Disputes Act.

It is impermissible to compare the case of the applicant, who is a daily rated workman, to the permanent employees of the petitioner. Even if these employees were once upon a time daily rated employees and junior to the applicant herein, it is not seriously disputed that they have been in fact made permanent sometime in 1991 and are drawing salary accordingly. Their case is clearly incomparable to that of the applicant herein.

There is, accordingly, no merit in the civil application and the same is rejected.

Considering, however, that the reinstatement order was passed by the Labour Court on a reference made as far back as in 1986, hearing of the petition is expedited at the request of respondent No.1. The petition to accordingly come up for hearing high on board on 14.09.2017.

JUDGE

PBP