

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 557 OF 2003

Godawari Marathwada Irrigation
Development Corporation, Aurangabad
through the Executive Engineer,
Minor Irrigation Division, Latur. ..Petitioner

Versus

Shri Rajkumar Madhavrao Jadhav
Age major, C/o Advocate Shri G.B.
Pawar, Mantri Nagar, Latur. ..Respondent

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None present.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 12, 2018
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ORAL JUDGMENT :-

1. None appeared for the petitioner on 9.11.2017, 20.4.2018 and 29.6.2018. This matter was posted today for passing orders. Even today, none appears for the petitioner.

2. None appears even for the respondent.

3. Rather than dismissing this petition in default, I have gone through the pleadings of the parties and the petition paper book.

4. The Labour Court has allowed Reference (IDA) No.6 of 1997 by the impugned award dated 11.10.2003. The termination of the respondent / workman dated 2.9.1984 has been quashed and set aside and he has been granted reinstatement with continuity in service, without backwages, from 2.9.1984. By order dated 25.2.2003, passed by this Court, interim relief was granted in terms of prayer clause “B”, vide which, the impugned award has been stayed. The record does not reveal that the respondent has filed an application for Section 17-B benefits under the Industrial Disputes Act, 1946.

5. The Honourable Apex Court has crystallized the law with regard to short tenures of employment followed by long spell of unemployment in the following four cases:-

1. Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohan Lal [2013 LLR 1009],

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

3. BSNL Vs. Man Singh [(2012) 1 SCC 558] and

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

It is, therefore, ruled that compensation of about Rs.40,000/- for per year of service can be paid to the said employee, since reinstatement is neither practical nor pragmatic.

6. There is no dispute that the Labour Court has concluded that the respondent had worked as a daily wager from 21.11.1983 to 2.9.1984. Neither was an appointment order issued, nor was any specific order of termination handed down to the respondent. He has, therefore, worked for about nine months as a daily wager. An industrial dispute for challenging the alleged termination w.e.f. 2.9.1984, was raised in 1997 after a passage of 13 years. Having worked for about 9 months, and having raised an industrial dispute for questioning the termination of 2.9.1984 after 13 years, has been wrongly considered by the Labour Court for grant of benefits of reinstatement in service with continuity. The impugned award indicates apparent non-application of mind on the part of the Labour Court.

7. In the light of the above, this petition is partly allowed. The impugned award dated 11.10.2002 is quashed and set aside and considering that the respondent has worked for about 9 months, I am granting him compensation of Rs.25,000/- in the light of the law laid down by the Honourable Apex Court in the above referred four cases.

8. The petitioner shall, therefore, pay an amount of Rs.25,000/- (Rs. Twenty Five Thousand only/-) to the respondent by depositing the said amount in this Court on/or before 31.8.2018, failing which the Executive Engineer, Minor Irrigation Division, Latur, shall pay the interest at the rate of 6% per annum on the said amount, from the date of the impugned award, from his salary account. The interest component shall not be paid from the State exchequer.

9. Rule is made partly absolute accordingly.

(RAVINDRA V. GHUGE, J.)

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