

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 299 OF 1997

Employer in relation to
the Management of Telecom
District Manager, Dhule
through the Telecom
District Manager, Dhule. ..Petitioner

Versus

Daga Maharu Desale
residing at C/o Shri R.G.
Mule, T.S.(O),
Telephone Exchange,
Dhule. ..Respondent

...
ASG for Petitioner : Shri S.B.Deshpande
Advocate for Respondent : Shri S.P.Brahme
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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 06, 2018
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ORAL JUDGMENT :-

1. The petitioner is aggrieved by the award dated 15.11.1995, delivered by the Central Government Industrial Tribunal No.2, by which, Reference No. CGIT-2/7 of 1994 has been partly allowed and the respondent was granted temporary status with a direction to the petitioner to appoint him as a casual labourer as per the Schemes and Circulars applicable.

2. I have considered the strenuous submissions of Shri Deshpande, learned ASG on behalf of the petitioner and Shri Brahme, learned Advocate on behalf of the respondent.

3. This Court has admitted this petition on 27.1.1997 and the impugned award was stayed.

4. The petitioner has raised an issue as to whether the Telecom Department would be an 'industry' under Section 2(j) of the Industrial Disputes Act, 1947. I find from the order of Reference, by which, the Industrial Dispute was referred to the CGIT that the said issue was neither raised nor was referred for adjudication. Even otherwise, the Telecom Department would be an 'industry' in view of the judgment of the Honourable Apex Court in the matter of Bangalore Water Supply and Sewerage Board Vs. A.Rajappa [AIR 1978 SC 548].

5. The issue in hand is not under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act") which would give rise to the issue as to whether the State Government or the Central Government would be the 'appropriate Government' under Section 2(a) of the ID Act.

6. It emerges from the record that there was no dispute with regard to the respondent having worked for about 300 days in between 1.1.1985 to 21.11.1985. The Industrial Dispute was raised in 1994. The respondent is out of employment for the past about 33 years after having worked for about 300 days.

7. Considering the above, I deem it appropriate to grant compensation to the respondent, keeping in view the law laid down by the Honourable Apex Court 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].

8. It is in the light of the law laid down by the Honourable Apex Court in the above referred four cases that I am awarding

the compensation since the Tribunal has arrived at a finding on fact that the respondent had worked for about 11 months.

9. In the light of the above, this petition is partly allowed. The direction issued by the Tribunal vide its award dated 15.11.1995 is modified and the petitioner is directed to pay compensation of Rs.30,000/- (Rs. Thirty Thousand only/-) to the respondent as full and final settlement of his claims having worked for about 11 months. The said amount shall be deposited in this Court by the petitioner within twelve weeks from today, failing which, the petitioner would be liable to pay interest at the rate of 6% per annum from the date of admission of this matter in this Court. After the amount is deposited, the respondent is at liberty to withdraw the same by filing an application duly identified by his Advocate along with a copy of his Election Commission Voter ID / Aadhar Card.

10. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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