

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3050 OF 2001

The State of Maharashtra
Through Executive Engineering
Urdhav Pravara Canal Division,
Sangamner (Ghule Wadi),
District Ahmednagar. ..Petitioner

Versus

Laxman Rabhaji Bhusare,
Age 32 years, Occ. Nil
R/o Avhane (Kd.) Tq. Shevgaon,
District Ahmednagar. ..Respondent

WITH
WRIT PETITION NO. 3051 OF 2001

The State of Maharashtra
Through Executive Engineering
Urdhav Pravara Canal Division,
Sangamner (Ghule Wadi),
District Ahmednagar. ..Petitioner

Versus

Ashok Laxman Suse,
Age 28 years, Occ. Nil
R/o Amrapur, Tq. Shevgaon,
District Ahmednagar. ..Respondent

WITH
WRIT PETITION NO. 3058 OF 2001

The State of Maharashtra
Through Executive Engineering
Urdhav Pravara Canal Division,
Sangamner (Ghule Wadi),
District Ahmednagar. ..Petitioner

Versus

Babasaheb Vithoba Dure,
R/o Avhane, Tq. Shevgaon,
District Ahmednagar.

..Respondent

WITH
WRIT PETITION NO. 3092 OF 2001

The State of Maharashtra
Through Executive Engineering
Urdhav Pravara Canal Division,
Sangamner (Ghule Wadi),
District Ahmednagar.

..Petitioner

Versus

Kadubal Punja Garad,
Age 32 years, Occ. Nil
R/o Amrapur, Tq. Shevgaon,
District Ahmednagar.

..Respondent

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AGP for Petitioner : Shri S.K.Tambe
a/w Smt Suchita A. Dhongade h/f Shri Suresh Dhongade
Advocate for Respondents : Shri N.K.Kakade

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 19, 2018

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ORAL JUDGMENT :-

1. In all these Writ Petitions, petitioner / State seeks to challenge the common award dated 21.4.2001, delivered by the Labour Court in Reference (IDA) No.1 to 3 and 22 of 1995. By order dated 6.8.2001, ad-interim protection was granted by this Court. By order dated 7.12.2001, the impugned award was stayed.

2. I have heard the strenuous submissions of the learned AGP on behalf of the petitioner and Shri Kakade, learned Advocate on behalf of the identically placed respondent / workers, who were the second parties before the Labour Court. With their assistance, I have gone through the petition paper book and the impugned judgment.

3. I find from the statements of claims filed by the respondents before the Labour Court that they have conceded of having worked on daily wages for a period of about 12 months to 14 months in between 1982 to 1983. All have contended that they have been orally terminated on different dates in 1983. An industrial dispute was raised by these workers under Section 2A of the Industrial Disputes Act, 1947 in 1995, after a passage of about 12 years. Each of them prayed for reinstatement with continuity and full backwages.

4. The petitioner / original first party opposed these claims and contended that all these second parties were daily wagers who were working intermittently on a project. Since the project was abolished after achieving the object for which it was undertaken, on 30.9.1984, the daily wagers had no work to

perform. It was specifically contended in the Written Statement by specifying the actual number of days worked by these respondents that they had worked in between 106 days to about 133 days. None of them had completed 240 days in the continuous employment of the petitioner.

5. I find that the petitioner had prepared a ready reference extract chart for the convenience of the Labour Court to indicate the number of days that these workers had worked and the amounts paid to them as daily wages at the rate of Rs.6/- per day. The extracts and supporting documents as well as the letter of the Government dated 30.10.1984 declaring the closure of the sub-division as the project had concluded, were all exhibited and read in evidence.

6. I find that the Labour Court ignored the fact that these workers had raised an industrial dispute against their purported illegal termination after 12 years and the record with regard to the daily wagers maintained by the Department would not be available when the evidence was adduced some time in 1997-98. The Labour Court concluded that some other daily wagers, whose names were not before the Court and were not examined, had been taken on Converted Regular Temporary Establishment

(CRTE) and hence, these workers were entitled for reinstatement and continuity of service along with 25% backwages from the date of their termination till their reinstatement.

7. In the above fact situation, I find that the following judgments of the Honourable Apex Court are squarely applicable to these 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. In the above referred cases, the Honourable Apex Court has laid down the law that when daily wagers / temporaries were working for shorter durations followed by a long spell of unemployment, reinstatement with or without backwages would not be practicable and such workers could be granted lump sum

compensation at the rate of Rs. 40,000/- per year of service put in.

9. In these cases none of the workers had worked for 240 days in a calendar year. They raised an industrial dispute after 12 years. They are out of employment for 35 years. Their last drawn wages were at the rate of Rs.6/- per day. While taking into account these aspects, it cannot be ignored that pursuant to the petitions filed by the State and the grant of interim relief, these workers could have been entitled for the benefits of Section 17B of the ID Act. Such applications were filed by these workers in 2004 and this Court took up these applications for hearing in August 2014. These applications were, therefore, disposed off as the main petitions were listed for final hearing. In this backdrop, I am of the view that the impugned judgments deserve to be quashed and set aside and these respondents could be granted lump sum compensation of Rs.25,000/- each towards Section 17B benefits at the rate of their last drawn wages.

10. In view of the above, these petitions are partly allowed. The impugned common judgment and award dated 21.4.2001 stands quashed and set aside and Reference (IDA) No.1 to 3 and 22 of 1995 stand answered in the negative. The petitioner /

State shall pay compensation at the rate of Rs.25,000/- to each of the respondents, which shall be deposited in this Court on/or before 14.8.2018, failing which the said amount shall carry interest at the rate of 6% from the date of the award 21.4.2001 and the component of interest would then be recovered from the personal account / salary of the Assistant Engineer (Class I), Khairi Project Canal Sub-Division No.2, Rahuri Kd. District Ahmednagar. After the amounts are deposited in this Court, the respondents would be at liberty to withdraw the said amount by tendering an application through an Advocate supported with their recent photograph and copy of the Election Commission's Voter ID card.

11. Rule is made absolute accordingly.

12. Pending Civil Applications, if any, stand disposed off.

(RAVINDRA V. GHUGE, J.)

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