

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1065 OF 2004

The Chief Executive Officer,
Zilla Parishad, Beed.

...PETITIONER

-VERSUS-

1 Smt.Yamuna wd/o Vithal Pokale,
 (L.R. of deceased Vithal Appa Pokale)
 C/o Trade Union Center,
 Bashirganj, Beed,
 Taluka and District Beed.

2 The State of Maharashtra.

...RESPONDENTS

...
Advocate for the Petitioner : Shri H.K.Munde.
Advocate for Respondent 1 : Shri V.P.Golewar.
AGP for Respondent 2 : Shri S.R.Yadav Lonikar.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd March, 2018

Oral Judgment :

1 The Petitioner/ Zilla Parishad is aggrieved by the judgment and award dated 10.10.2001 delivered by the Labour Court, by which, Reference (IDA) No.136/1990 has been partly allowed.

2 This petition was admitted on 08.06.2004 by this Court and interim relief was not granted.

3 There is no dispute that the Workman (Vitthal Appa Pokale), who claimed to be working from 15.10.1981, had passed away on 24.12.1991. By the impugned order, the Labour Court has granted wages from the date of reference which is 14.09.1990 till his death on 24.12.1991.

4 The learned Advocate for the Petitioner has strenuously criticized the impugned judgment. He has taken me through the five grounds formulated in the memo of the petition and submits that the petition deserves to be allowed and the impugned award deserves to be quashed and set aside.

5 The learned Advocate for the Respondent, who is a widow of the deceased Workman, has supported the impugned award.

6 I find from the record available that the Petitioner admitted in it's reply before the Labour Court that the said workman was working on daily wages from 15.10.1981. The widow deposed before the Labour Court and stated that the deceased was in continuous service till 18.05.1987 when he was terminated orally. The deceased had, therefore, raised an industrial dispute and the reference was registered with the Labour Court.

7 The record also reveals that the Petitioner contended that the deceased workman was working from 15.10.1981. He was arrested in 1987 for a crime allegedly committed by him under Sections 302, 147,

149, 328, 323 r/w 34 of the Indian Penal Code. Owing to his arrest, he did not attend duties and alleged oral termination.

8 The Labour Court has concluded that the Petitioner did not issue an order of termination. In the face of the claim by the deceased workman that he was orally terminated on 18.05.1987, the Petitioner appears to have taken a stand that the deceased workman himself stopped reporting for duties which would amount to abandonment of service. However, no notice was issued to the deceased workman calling upon him to report for duties, inasmuch as, no notice of unauthorized absenteeism was served upon him. Consequentially, whether, the deceased workman himself stopped reporting for duties or whether, the Petitioner prevented him from reporting for duties, is an issue which is not investigated. When the deceased workman approached the Labour Court alleging oral termination, the Petitioner could have taken a definite stand and which has not been done.

9 In this backdrop, the Labour Court concluded that as the Industrial Dispute was raised after three years of his oral termination, he would be entitled for full back wages from the date of reference from 14.09.1990 till the date of his death 24.12.1991.

10 In the light of the above, I do not find that the impugned direction could be termed as being perverse or erroneous. In the peculiar facts and circumstances, I find that the Labour Court has passed an

equitable order, which does not call for an interference. This Writ Petition being devoid of merit is, therefore, dismissed.

11 Rule is discharged.

kps

(RAVINDRA V. GHUGE, J.)