

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1362 OF 2004

Sheshrao Baburao Bansode,
Age-45 years, Occu-Nil,
R/o At Post : Nagpur,
Ta.Parali-Vaijanath,
Dist.Beed

-- PETITIONER

VERSUS

The Executive Engineer,
Beed Irrigation Division,
Beed, Dist.Beed

-- RESPONDENT

Mr.P.L.Shahane, Advocate for the petitioner.
Mr.V.S.Badakh, AGP for the respondent/State.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 21/03/2018

ORAL JUDGMENT :

1. The petitioner is aggrieved by the judgment and award dated 06/02/2001 by which the Labour Court has answered Ref.(IDA) No.100/1993 in the negative. The reference was made to the Labour Court after the petitioner raised an Industrial dispute that he was unlawfully terminated on 01/03/1990 after continuous service from 01/01/1979.

2. I have considered the strenuous submissions of Mr.Shahane, learned Advocate for the petitioner and the learned AGP on behalf of the

respondent.

3. The record reveals that the petitioner contended that he was working on daily wages from 01/01/1979 till 01/03/1990. He alleged termination on 01/03/1990 without compliance of Section 25-F of the I.D.Act, 1947. He had issued a notice for production of the attendance register and the payment register as well as the seniority list. The respondent/establishment did not produce the relevant documents and has merely produced a chart indicating that the petitioner was working intermittently and had put in about 69 days in 1979, 144 days in 1980, 35 days in 1981, 80 days in 1984, 54 days in 1985, 60 days in 1987 and 15 days in 1989.

4. It is well settled that the onus and burden of proving completion of 240 days in continuous employment with the employer, lies with the workman who claims continuous service. The respondent is an Irrigation Division of the State Government. Every rupee paid to any labourer has to be accounted for. Accordingly, the department prepared a chart on the basis of its registers and has brought before the Labour Court the period for which the petitioner had worked and conceded that they had paid the petitioner daily wages for the days that he had worked.

5. The witness of the department was extensively cross examined by the petitioner. He could not bring on record any material which would indicate that he had completed 240 days in the continuous service of the respondent. In fact, the Labour Court has recorded in paragraph 7 of the impugned judgment that the petitioner has not averred in the statement of claim that he had worked continuously, without interruption or break in service during the period of his employment on daily wages.

6. The Hon'ble Apex Court has settled the issue that mere completion of 240 days in a Government instrumentality would not be enough to grant reinstatement or regularization in service.

7. The evidence that was brought on record before the Labour Court indicated that the petitioner was not appointed on a permanent vacant post. He was allotted work on daily wages on a project which subsequently came to an end.

8. Considering the above, I do not find that the impugned award could be termed as being perverse or erroneous. This petition, being devoid of merits, is therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)