

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.697 OF 2005

1. The State of Maharashtra,
Through the Plantation officer,
Social Forestry Range, Amalner,
Shankar Nagar Plot No.18,
Amalner, Dist. Jalgaon
 2. The Deputy Conservation of Forest,
Jalgaon, Dist. Jalgaon
- PETITIONERS

VERSUS

1. Yuvraj s/o Pundlik Patil,
Age-42 years, Occu-Nil,
R/o at Dhar, Tq. Amalner,
Dist. Jalgaon
 2. Ramesh Dhadu Dhangar,
Age-42 years, Occu-Nil,
R/o Chandanikurhe, Tq.Amalner,
Dist. Jalgaon
- RESPONDENTS

Mr.B.A.Shinde, AGP for the petitioners.
Mr.V.Y.Patil, Advocate for the respondents.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 07/06/2018

ORAL JUDGMENT :

1. The petitioner/Department of Social Forestry is aggrieved by the judgment of the Labour Court dated 04/04/2003 by which Complaint (ULP) 53/1999 filed by the Union on behalf of Yuvraj Pundlik Patil and Ramesh Dhadu Dhangar has been allowed and

they have been granted reinstatement in service with continuity and full back wages. The petitioner is also aggrieved by the judgment of the Industrial Court dated 28/06/2004 by which Revision (ULP) No.77/2003 filed by the petitioner was dismissed.

2. This petition was admitted by a detailed order of this Court dated 08/02/2005 and the impugned judgments were stayed subject to depositing 50% of the back wages. It is undisputed that during the pendency of this petition, both the respondents have withdrawn the deposited back wages in equal proportions.

3. I have considered the strenuous submissions of the learned AGP on behalf of the petitioners and the learned Advocate on behalf of the respondents.

4. There is no dispute that the two respondents namely Yuvraj and Ramesh were intermittently working on daily wages with the Department of Social Forestry in between 01/01/1986 to 01/04/1999 and 28/04/1986 to 01/04/1999 respectively. It is also undisputed that Yuvraj had preferred an individual Complaint (ULP) No.1211/1999 before the Industrial Court praying for benefits of permanency.

5. After the said complaint was allowed, the department preferred WP No.2770/2002 which was disposed of and Yuvraj has withdrawn an amount of Rs.69,344/- from this Court besides withdrawing the amount of Rs.28,620/- from this Court in these proceedings.

6. I find from the written statement filed before the Labour Court that it had taken two specific grounds. Firstly, that the Department of Social Forestry is not an industry in the light of the judgment of this Court in the matter of Marathwada Sarwa Shramik Sanghatana Vs. Assistant Director, Department of Social Forestry [2002(3) Mh.L.J. 760 = 2002(3) LLJ 820]. Secondly, that both the respondents were engaged on daily wages in a specific project undertaken by the Department of Social Forestry for increasing the area of forestation.

7. The Labour Court has concluded that the Department of Social Forestry is an industry despite referring to the judgment of this Court in the matter of Marathwada Sarwa Shramik Sanghatana (supra) in which this Court had concluded that the complaint filed before the Industrial Court was not maintainable as Social Forestry is not an industry. I find that on this solitary ground, in view of the conclusion of this Court in Marathwada Sarwa Shramik Sanghatana

(supra), Complaint (ULP) No.53/1999 filed by the Union under the provisions of the MRTU and PULP Act, 1971 was not maintainable. Consequentially, the proceedings before the Industrial Court would be rendered redundant and both the impugned judgments deserve to be quashed and set aside.

8. Learned Advocate for the respondent/worker has strenuously prayed that some monetary benefits may be given to these two respondents keeping in view that they are in litigation from 1999 and are out of employment for about 19 years. Both of them have crossed the age of superannuation.

9. In so far as the respondent Yuvraj is concerned, he has already received an amount of Rs.69,344/- under the orders of this Court towards his monetary benefits. He has also withdrawn Rs.28,620/- from this Court. I do not find that any further compensation needs to be granted to Yuvraj.

10. In so far as Ramesh is concerned, he has withdrawn Rs.28,620/- from this Court as a part of the back wages. In my view, when the complaint itself was not maintainable before the Labour Court, grant of compensation is likely to lead on a wrong precedent.

At best, Ramesh can be granted the liberty to approach the department of Social Forestry if retrenchment compensation has not been paid to him, keeping in view the specific contention of the petitioner in paragraph No.5 of its written statement that these respondents were entitled to retrenchment compensation and the said amount has been paid to him. If any representation is put forth by Ramesh, the petitioner may consider the same and pay him retrenchment compensation, if not already paid.

11. With the above observations, this petition is allowed. Complaint (ULP) No.53/1999 stands dismissed for being untenable in law. Consequentially, both the impugned judgments of the Labour and Industrial Court stand quashed and set aside. Rule is made absolute in these terms.

12. In the peculiar facts and circumstances of this case, the amount of back wages withdrawn by the two respondents, with the permission of this Court earlier, would not be recoverable from them by the petitioner Department.

(Ravindra V.Ghuge, J.)