

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

WRIT PETITION NO.13192 OF 2017

ARUN DATTATRAYA KAHANE
VERSUS
SANGAMNER TALUKA VIKAS PRATISHTHAN BHAIKAVNATH
MADHYAMIK VIDYALAYA.

WRIT PETITION NO.13331 OF 2017

BALASAHEB DAGADU YEOLE.
VERSUS
SANGAMNER TALUKA VIKAS PRATISHTHAN BHAIKAVNATH
MADHYAMIK VIDYALAYA.

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Advocate for the Petitioners : Shri Barde Parag Vijay.
Advocate for the Respondent : Shri Ashok Patil.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 02nd August, 2018

Per Court:

1 In both these Writ Petitions, the Petitioners, who were the original second party workmen before the Labour Court in Reference (IDA) Nos.19/2010 and 29/2010, are aggrieved by the awards dated 21.04.2017 by which, the Labour Court has answered the references partly in the affirmative and has granted compensation in lieu of the reinstatement with continuity of service and back wages.

2 The statements made by the learned Advocates for the

respective sides are recorded as under :-

(a) Both these Petitioners pray only for enhancement in the compensation granted by the Labour Court.

(b) The Management in both these petitions has not filed a counter writ petition challenging the grant of compensation.

3 I have heard the submissions of the learned Advocates for the respective sides and with their assistance, I have gone through the petition paper books and the grounds raised therein.

4 Since the issue is now restricted only to the aspect of whether, the compensation granted by the Labour Court deserves to be enhanced or not, I am not required to deal with other aspects of the impugned awards.

5 It is stated by the learned Advocate for the Petitioners, on instructions, that in the first case, the employee had worked from 13.06.1993 till 19.09.1995 and in the second case, he has worked from 14.06.1993 and was terminated on 23.04.1997. As such, in the first case, the workman has worked for about two years and three months and in the second case, he has worked for about three years and ten months.

6 The Honourable Supreme Court, while dealing with somewhat similar cases wherein short tenures of employment as daily wagers have been put in and that is followed by long spells of unemployment, has delivered the judgments in the following four cases :-

- (a) *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal, [2013 LLR 1009];*
- (b) *Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh, [(2013) 5 SCC 136];*
- (c) *BSNL Vs. Man Singh, (2012) 1 SCC 558; and*
- (d) *Jagbir Singh Vs. Haryana State Agriculture Marketing Board, [(2009) 15 SCC 327].*

The Honourable Supreme Court has, therefore, in general, quantified the compensation to Rs.40,000/- per year of service that has been put in by the employee in lieu of reinstatement with continuity and back wages, wherever it would not be pragmatic and practical to reinstate the employee in service.

7 In both these cases, I find that the said view taken by the Honourable Supreme Court is squarely applicable as these Petitioners have put in about two to four years in service and have been out of employment for about 23 years and 21 years, respectively.

8 While granting compensation, it has to be noted as to whether, the claimant has been in employment after his termination. The Labour Court has granted Rs.50,000/- as compensation in both these cases ignoring that in the second case, the workman had worked for about three

years and ten months. The Management having not challenged the grant of compensation, the amount granted by the Labour Court can either be maintained as it is or could be enhanced depending upon the facts and circumstances emerging in these cases.

9 In the first case filed by Arun Kahane, the Labour Court has recorded the evidence in which Arun Kahane has admitted that he possesses a driving licence for heavy motor vehicles like truck or bus. After his termination, he worked with Rajhans Dudh as a truck driver for about three to four months. During 2006-2010, he worked as a school bus driver with Lamkhede English Medium School and was drawing about Rs.2500/- per month. Presently, he is working as a driver on a transport tempo and drawing Rs.3000/- per month along with daily allowance/ bhatta of about Rs.100/- per day. He has then stated that he was drawing Rs.4500/- per month when he was driving the school bus of the first party employer.

10 In this backdrop, I do not find that the request for enhancement of compensation could be accepted since Arun Kahane has been in gainful employment as per his own statement before the Labour Court. The first Writ Petition filed by Arun Kahane is, therefore, dismissed.

11 Insofar as the second case is concerned, which is filed by Balasaheb Yeole, it has come on record before the Labour Court that after his termination, he was working as a waiter in a hotel on daily wages at the rate of Rs.50/- per day. There is no further evidence on record to

indicate as to whether, he was drawing any such amount of wages which could be sufficient for him to feed himself and his family. Considering that he was earning a meagre amount as a waiter after his termination and has been granted compensation of Rs.50,000/- by the Labour Court, I deem it appropriate to enhance the said compensation, keeping in view the law laid down by the Honourable Supreme Court in the above four cases and upon considering his employment for 3 years and ten months, by an amount of Rs.50,000/-.

12 As such, the second writ petition, which is filed by Balasaheb Yeole, is partly allowed and the impugned award of the Labour Court is modified by enhancing the compensation from Rs.50,000/- to Rs.1 lac.

13 Since the statement is made by the learned Advocate for the Management that the compensation granted by the Labour Court has still not been paid, it is, therefore, now expected that the Respondent/ Management would pay the compensation amount of Rs.50,000/- to the Petitioner (Arun Kahane) and Rs.1 lac to the Petitioner (Balasaheb Yeole) within a period of SIX WEEKS from today, failing which, the said amounts would carry interest at the rate of 6% per annum from the date of the awards of the Labour Court till the amounts are actually paid to the respective Petitioners.