

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION No. 3510 OF 1998

The Principal,
Government Polytechnic,
Dhule

... Petitioner

V/s.

1. Nitin Devidas Badgujar,
Age Major, Occu. Service,
r/o House No. 1052, Galli No.14,
Subhash Nagar, Dhule.

2. The Collector, Dhule

... Respondents

AGP for the Petitioner : Shri P. N. Kutti

AGP for the Respondent No.2 : Shri N. T. Bhagat

CORAM : RAVINDRA V. GHUGE, J.

Dated : May 6, 2019

ORAL JUDGMENT :-

1. None present for respondent No.1 employee, who was the original complainant before the Labour Court. I have heard the learned AGP extensively on behalf of the petitioner, the Government Polytechnic Institution and the learned AGP on behalf of respondent No.2, the District Collector, Dhule. With their assistance I have gone through the petition paper book.

2. Respondent No.1, hereinafter referred to as the employee, had approached the Labour Court at Dhule by filing complaint (ULP) No.

286 of 1990. It was averred that he was appointed on 1.12.1989 as a “Laboratory Assistant”. His appointment was for a period from 2.12.1989 to 30.12.1989. By efflux of time, he was disengaged on 30.12.1989 and again was re-engaged on 4.1.1990 till 31.1.1998. The same pattern of disengagement as followed by management was continued by the petitioner, who kept on issuing appointment orders of 29 days to the employee followed by a break of two days or three days. Such employment was continued till 30.7.1989. It is seen from the record and as is concluded by the Labour Court, that barring the artificial breaks in service of about two days or three days and on same occasions even a single day, the complainant employee has completed 240 days in continuous employment with the petitioner establishment.

3. I do not find that the said conclusion could be faulted for the reason that an identical position was dealt with by the Hon'ble Apex Court in the matter of H. D. Singh Vs. R.B.I. and Ors. [(1985) 4 SCC 201]. The Hon'ble Apex Court has heavily criticised employers and managements who engaged daily wagers for 29 days and introduced an artificial break in service of a day or two.

4. For the above reasons, the labour Court delivered its judgment dated 19.3.1994, by which the complaint was allowed and the petitioner was directed to reinstate the employee in service with continuity and full back wages, alongwith interest at the rate of 15% per

annum.

5. The petitioner approached the Industrial Court by preferring Revision (ULP) No. 81/1994 under section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. By judgment dated 20.11.1997, though the Industrial Court rejected the revision application, it recorded the statement made by the employee that he has waived all his back wages and was satisfied with reinstatement and continuity in service.

6. The petitioner management has therefore assailed the judgment of the Industrial Court dated 20.11.1997. The employee has not approached this Court by preferring a writ petition.

7. This Court heard the petition on 14.8.1998 and admitted it by specifically refusing interim relief to the petitioner.

8. In my view, considering the law laid down by the Hon'ble Apex Court in the matter of R.B.I. vs. H.D. Singh (supra) and keeping in view that this Court did not interfere with the order of the Industrial Court approving reinstatement and continuity in service, no interference is called for.

9. This petition, being devoid of merit, therefore, is dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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