

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

WRIT PETITION NO.5116 OF 2001

Lahanu Sabaji Shinde,
Age : 50 years, Occupation : At present nil,
R/o Babhaleshwar, Tq.Shrirampur,
District Ahmednagar.

...PETITIONER

VERSUS

The Manager/ Administrator,
Shrirampur Doodh Zilla
Madhyawarti Sahakari Vyasahik
Sangh Ltd., Babhaleshwar,
Tq.Shrirampur, District Ahmednagar.

...RESPONDENT

...

Shri Manoj Patil, Advocate h/f Shri Shri C.K.Shinde, Advocate for the
petitioner.

Shri Sanket N. Suryawanshi, Advocate h/f Shri N.B.Suryawanshi,
Advocate for the respondent.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st June, 2019

Oral Judgment :

1 The petitioner has filed this petition seeking back wages from
the date of his termination 04.12.1987 till his reinstatement on
02.06.2003.

2 The petitioner was the second party workman before the

Labour Court in Reference (IDA) No.7/1988. The Labour Court allowed the reference and held that the petitioner was entitled for reinstatement with continuity of service from 04.12.1987. He was directed to pay Rs.3286.50 paise to the respondent management. He preferred this petition for seeking back wages.

3 Having heard the learned advocates for the respective sides, I find from the record available that the petitioner has not led any evidence as regards not being in gainful employment. He has not deposed before the Labour Court to suggest that he desperately tried to secure employment and despite his efforts, he was unable to get any employment. Since no such evidence was brought before the Labour Court, it refused back wages to the petitioner.

4 A disputed issue has been raised by both the sides as regards the reinstatement of the petitioner. He is undisputedly reinstated on 02.06.2003. He contends that the management did not allow him to report for duties. The management contends that he was absconding and had not reported for duties. The management had to issue a letter dated 07.09.2001 calling upon him to report for duties and make the payment of Rs.3286.50 to the management as was directed by the Labour Court. It is submitted by the management that he reported for duties on 02.06.2003 and then, again started remaining absent for which, a departmental enquiry was conducted and he has been dismissed from service.

5 I find from the judgment delivered by the Honourable Supreme Court in the matter of *J.K. Synthetics Limited vs. K.P.Agrawal, 2007(2) SCC 433*, wherein, it has been held that the least that is expected from the workman is some evidence to be adduced by stepping into the witness box to establish that he tried to get alternate employment and had failed. Similar is the view taken by the Honourable Supreme Court in the matter of *Rajasthan State Road Transport Corporation vs. Phool Chand, AIR 2018 SC 4534*.

6 In view of the above, I do not find that this petition deserves to be entertained. As such, this Writ Petition is dismissed. Rule is discharged.

kps

(RAVINDRA V. GHUGE, J.)