

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

WRIT PETITION NO.1578 OF 1999

1. State of Maharashtra
through (Executive Engineer,
Minor Irrigation Division No.1,
Sinchan Bhavan, Aurangabad.
2. The Godavari Marathwada Irrigation
Development Corporation, Aurangabad
Through its Executive Director,
Sinchan Bhavan Building Jalna Road
Aurangabad. **...PETITIONERS**

VERSUS

Radhakishan Chango Sartale
Age 40 years, Occu. Nil.
R/o Ajantha, Tq. Sillod,
Dist. Aurangabad. **...RESPONDENT**

**WITH
CIVIL APPLICATION NO. 460 OF 2012 IN WP/1578/1999**

1. The Godavari Marathwada Irrigation
Development Corporation, Aurangabad
Through its Executive Director,
Sinchan Bhavan, Aurangabad.
2. The executive engineer,
Minor Irrigation Division No.1
Aurangabad **...APPLICANTS**

VERSUS

1. Radhakishan Chango Sartale
2. The Government of Maharashtra **...RESPONDENTS**

...
AGP for Petitioner No.1 : Shri P. N. Kutti
Advocate for Petitioner No.2 : Shri P. R. Tandale
Advocate for Respondent - sole : Shri A. S. Shelke

...
CORAM : RAVINDRA V. GHUGE, J.

DATED : 06th MAY, 2019.

...

ORAL JUDGMENT :

1. The petitioners are aggrieved by the judgment and award dated 14/10/1998 delivered by the Labour Court, Aurangabad, vide which, Reference (IDA) No. 84/1988 was partly allowed and the second party workman was granted reinstatement in service with continuity, without back wages.

2. By the order of this Court dated 07/04/1999, the petition was admitted and interim relief was granted in terms of prayer clause (C) which reads as under :-

"C. Pending hearing and final disposal of the present petition, judgment and order passed by the Ld. Labour court, Aurangabad in reference IDA No. 84/88 dt. 14-10-98 may kindly be stayed".

3. I have heard the learned AGP on behalf of the State and Shri Shelke, learned Advocate on behalf of the sole respondent who is the original second party workman. With their

assistance, I have gone through the record available and I have also considered the additional affidavit tendered by the workman dated 28/04/2017 and the G.R. dated 04/06/2005.

4. The record reveals that it was proved before the Labour Court on the basis of the oral and documentary evidence that the workman was working from 01/12/1984 till 10/11/1987. The workman had averred in the statement of claim that he was orally inducted as a watchman by the Executive Engineer, Minor Irrigation Division No.1, Aurangabad, on 13/11/1983. He was orally discontinued after four years on 10/11/1987. The petitioner establishment filed its written statement and also led evidence admitting that the workman was appointed from 01/12/1984 and he worked till November 1987. It was however, contended that he was intermittently not working for December 1985 and January 1986. The evidence before the Labour Court, therefore, established that the workman was working from December 1984 upto November 1987.

5. The record, thus, reveals that the respondent workman had worked for three years and was out of employment from December 1987, for the past about 31½ years.

6. Since this Court had stayed the award while admitting the petition on 07/04/1999, the workman had moved a Civil Application No. 1729/2000 praying for benefits under Section 17-B of the Industrial Disputes Act, 1947. By order dated 21/09/2001, the workman was granted last drawn full wages during the pendency of the petition. As such, he has received an amount of Rs. 83,000/- for the period December 2001 to December 2014 considering that his last drawn monthly wages were @ Rs. 533. It is stated that he would attend the age of superannuation on 2020 when he completes 60 years. His last drawn wages have not been paid from January 2015.

7. Considering the fact situation recorded as above, I deem it appropriate to rely upon the following judgments of the Honourable Apex Court :-

(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].

8. In the above referred judgments, the Honourable Apex Court dealt with cases of employees who had worked for small spells and were out of employment for long spells like 15 years or 20 years or even more. In such cases, the Honourable Apex Court held that reinstatement with continuity would not be appropriate as it would amount to foisting an employee upon an employer. Quantified compensation @ Rs. 40,000/- to 50,000/- per year of service was directed to be paid.

9. In the instant case, the employee has put in three years on daily wages. He has earned about Rs. 83,000/- under Section 17-B. He would normally have been entitled to a quantified compensation of Rs. 1,50,000/- for having worked for 3 years and being out of employment for almost 31 ½ years.

10. In view of the above, this petition is partly allowed. The impugned award stands modified in terms of the following directions :-

- (a) As the workman has received an amount of Rs. 83,000/- under Section 17-B, the petitioners shall pay a quantified compensation of Rs. 1,00,000/- to the respondent.

- (b) Both the petitioners shall deposit an amount of Rs. 50,000/- each, in this Court on or before 21/06/2019.
- (c) In the event the said amount is not deposited, as directed, the Executive Director of GMIDC and the Executive Engineer of the Minor Irrigation Division No.1, Aurangabad shall pay interest on the amount of Rs. 1,00,000/- @ 6 % p.a. from the date of the award, in equal share, from their salary accounts and the interest amount shall not be paid from the State Exchequer.
- (d) The respondent employee would be at liberty to withdraw the said amount towards full and final quantified compensation, under proper identification by his advocate.
- (e) Rule is made partly absolute in the above terms.

11. The pending Civil Application No. 460/2012 praying for final hearing in the Writ Petition, does not survive and stands disposed off.

(RAVINDRA V. GHUGE, J.)

shp/-