

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13742 OF 2018

ARUNA RAMDAS SABLE
VERSUS
GRAM SEVAK SARPANCH GRAM PANCHAYAT KARYALAY ADGAON

Mr.G.V.Wani, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 05/11/2019

PER COURT :

1. This Court (Coram : N.M.Jamdar, J.) had passed the following order on 11/12/2018 :-

"1. The learned Counsel for the petitioner seeks time to demonstrate that the entry of the petitioner in the services of the respondent public body, was as per the law laid down by the Constitution Bench in the case of Secretary, State of Karnataka Vs. Umadevi, and the other decisions following the same.

2. At his request, stand over to 22 January 2019.

sd/-xxx

1- AIR 2006 (Supreme Court)1 806"

2. The contention of the petitioner is that he was engaged by the respondent/Gram Panchayat on 24/06/2008 as a *Safai Kamgar*. He worked upto 28/02/2015. By resolution dated 27/02/2015, he was

terminated w.e.f. 28/02/2015. Section 25-F of the Industrial Disputes Act r/w 25-B, H and G were not followed. Grievance is that the Gram Panchayat had not raised any ground about work not being available. On the point of compensation, the petitioner had prayed for at least Rs.2,00,000/- as compensation. The Labour Court granted Rs.50,000/- as compensation with interest @ 6% from 07/11/2015. The prayer for re-instatement, continuity and full back wages was refused.

3. Despite service of Court notice pursuant to the order dated 22/01/2019, the respondent has not caused any appearance either through an Advocate or in person.

4. In so far as the Law of Recruitment in public employment is concerned, the record reveals that the petitioner was engaged on daily wages. There was no advertisement in a largely circulated newspaper. There was no selection process followed and the entry of the petitioner in employment was without following any particular procedure. It was a resolution that was passed by the Gram Sabha comprising of the elected members, on 24/06/2008 and he was inducted in service based on such resolution. The Law laid down by the Hon'ble Apex Court in Umadevi (supra) would therefore be a

serious impediment to the petitioner.

5. Considering that the petitioner cannot be reinstated in service, the prayer made in the alternative by the petitioner before the Labour Court could be favourably considered. She is said to have been in employment for about 6 years, 8 months and 4 days. She had prayed for compensation of Rs.2,00,000/-. The Hon'ble Apex Court has held that when it is not feasible to reinstate an employee in service and especially in a State instrumentality, compensation of Rs.30,000/- per year of service put in by the employee could be granted. Such view has been taken by the Hon'ble Apex Court in the matters of Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal [2013 LLR 1009], Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh [(2013) 5 SCC 136], BSNL Vs. Man Singh [(2012) 1 SCC 558] and Jagbir Singh Vs. Haryana State Agriculture Marketing Board [(2009) 15 SCC 327].

6. Considering the above and since the petitioner had worked for about 6 years and 8 months, it would be appropriate to grant her compensation, in lieu of re-instatement with continuity and back wages, of an amount of Rs.2,00,000/- with 6% interest from the date

of the judgment of the Labour Court, which is 18/12/2017.

7. As such, this petition is partly allowed. The directions of the Labour Court set out in clause Nos. 3, 4 and 5 shall stand modified and shall be replaced with the following directions :-

[a] The respondent/Gram Panchayat shall pay an amount of Rs.2,00,000/- with 6% interest from December 2017, to the petitioner within 3 months from today.

[b] The petitioner shall serve a copy of this order upon the respondent, within 15 days, after obtaining a print out from the official website of the Bombay High Court.

(Ravindra V.Ghuge, J.)