

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 11207 OF 2019

The Chief Executive Officer

Petitioner

Versus

Sopan s/o Shankar Magar

Respondent

Mr. D.B. Pawar, advocate for the petitioner.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 11th September, 2019

PER COURT:

1. The petitioner - Zilla Parishad, Aurangabad, is aggrieved by the judgment and award dated 18.05.2013, delivered by the Labour Court in Reference (IDA) No. 28/2000 by which, the reference proceedings were allowed. However, the labour Court has granted compensation of Rs. 1,50,000/- with interest at the rate of 12% per annum from the date of judgment, in lieu of re-instatement, continuity of service and backwages. The respondent was held to be in employment on daily wages from 01.09.1985 till 31.10.1996.

2. The learned Advocate for the petitioner further points out that the petitioner is also challenging the judgment of the Industrial Court dated 31.10.2018 by which, complaint (ULP) No. 1/2015, filed by the respondent has been allowed under Item 9 of Schedule IV of the MRTU and PULP Act, 1971.

3. I have considered the strenuous submissions of the learned Advocate for the petitioner - Zilla Parishad, Aurangabad. I have also perused the nine grounds formulated by the petitioner.

4. It is conceded by the petitioner that the respondent was working in between 1985 to 1996 as a daily wager, some time as a watchman or as a labourer or a peon in the office of the Deputy Engineer, Irrigation, Zilla Parishad, Vaijapur.

5. Petitioner primarily canvasses two issues. Firstly, that the respondent was working under the Employment Guarantee Scheme and therefore, no complaint is maintainable before the Labour Court or the Industrial Court. Secondly, as he was working on daily wages, there was no employer-employee relationship between the two.

6. Insofar as the first ground raised is concerned, the petitioner has not led any evidence and has not produced any record before the Labour Court to support its contention that the respondent-worker was working under the Employment Guarantee Scheme. It has become a usual defence on the part of such employers to raise

the ground of employment under the Employment Guarantee Scheme in order to defeat the claim of an employee. There can be no debate that a Deputy Collector is specifically entrusted with the work of the Employment Guarantee Scheme. A register of employees employed under the Employment Guarantee Scheme is maintained. Payments are made to such employees through the funds allocated to the Employment Guarantee Scheme. The Collector issues EGS cards to each of such daily wagers who are inducted to work under the scheme. In the absence of any such document before the Labour Court and in view of the admission that the respondent was working for about eleven years, the first ground raised by the petitioner has to fail.

7. The second ground raised is totally fallacious. If the worker is engaged on daily wages and payments are made by the petitioner, it is a shot in the dark to claim that there is no employer-employee relationship.

8. It appears that the respondent-employee has not challenged the impugned award to the extent of the quantum of compensation. In the following four cases decided by the Hon'ble Supreme Court, compensation in between Rs. 40,000/- to

Rs. 50,000/- per year for service put in by the employee is held to be commensurate compensation in lieu of re-instatement:-

1. Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohan Lal [2013 LLR 1009],

2. Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh [(2013) 5 SCC 136],

3. BSNL Vs. Man Singh [(2012) 1 SCC 558] and

4. Jagbir Singh Vs. Haryana State Agriculture Marketing Board [(2009) 15 SCC 327].

9. If eleven years service rendered by the respondent as a daily wager is to be taken into account, the compensation would be much higher. Since this petition is devoid of merit, the issue as to whether the compensation is lessor than the compensation prescribed by the Hon'ble Supreme Court, is left open to be considered if the respondent-employee approaches this Court by filing a writ petition. This petition is therefore dismissed.

RAVINDRA V. GHUGE
JUDGE