

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

WRIT PETITION NO. : 151 OF 2018

Laxman Ranoji Ambhore,
Age : 52 Yrs. Occu : Nil,
R/o Sarnath Colony, Opp.
Govt. Guest House,
Dhar Road, Parbhani.

....PETITIONER

VERSUS

1] Maharashtra Industrial
Development Corporation
Nanded, Through its
Executive Engineer.

2] Maharashtra Industrial
Development Corporation
Parbhani, Through its
Executive Engineer.

....RESPONDENTS

**WITH
WRIT PETITION NO. 2336 OF 2019**

1] Executive Engineer
Maharashtra Industrial
Development Corporation
MIDC, Nanded,

2] Deputy Engineer,
Maharashtra Industrial
Development Corporation
MIDC, Nanded.

....PETITIONERS

VERSUS

Laxman Ranoji Ambhore,
Age : Major, Occu : Nil,
In front of Government

Rest House, Dhar Road,
Parbhani.

....**RESPONDENT**

...
Advocate for the Petitioner : Shri P. V. Barde
Advocate for the Respondents : Shri S. S. Dande
...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 26th FEBRUARY, 2020.

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ORAL JUDGMENT :

1. The learned Administrative Judge of the Aurangabad Bench has passed an order on 04/04/2019 directing that the Court assigned with the 2018 matters, should also hear the 2019 petition. Nevertheless, now the entire assignment of Labour, Industrial and Service Law Cases is with this Court.

2. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

3. A short issue has been raised before this Court considering that the Labour Court having partly allowed Reference (IDA) No. 20/12 and has passed the following order :-

"AWARD

- 1] Reference is partly allowed.*
- 2] It is declared that the oral termination of IInd party dtd. 30/06/1988 is illegal and same is quashed and set aside.*
- 3] The 1st party is directed to pay compensation of Rs. 50,000/- to the IInd party within one month from the publication of award.*
- 4] The claim of back wages stands dismissed.*
- 5] The copy of this award be published according to law and 4 copies of this award be sent to Deputy commissioner of Labour, Aurangabad for publication."*

4. There is no dispute that the concerned employee worked with the MIDC as a daily wager in between 01/04/1984 and 30/06/1988. After putting in about 4 years of service as a daily wager, he has been out of employment for the last 32 years. In 1993, the MIDC prepared a seniority list with reference to the Nanded Region and the name of the employee was entered in the said list of retrenched employees. In 1999, his name was deleted.

5. The first petition has been filed by the employee seeking reinstatement in service, with continuity and full back wages. The MIDC has preferred the second petition for seeking the dismissal of the reference proceedings and setting aside the order of granting Rs. 50,000/- as compensation.

6. The learned Advocate for the employee relies upon the following judgments :-

*(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]**;*

*(d) Jagbir Singh Vs. Haryana State Agriculture Marketing Board, **[(2009) 15 SCC 327]** and*

(e) Bhavnagar Municipal Corporation etc. Vs. Jadeja Gomu Govubha Chhanubha & Anr., [2015 AIR SC 609].

7. The learned Advocate for the MIDC has vehemently criticized the impugned award. He relies upon the grounds formulated in the memo of the

petition and submits that the employee was neither selected by following a selection process, nor was he appointed as a regular employee. As and when work was available, he was engaged as a clerk cum typist. Having worked intermittently over a period of about 4 years and raising an industrial dispute in 2011 and bringing the case to the Labour Court in 2012, itself is sufficient for the dismissal of the reference case. It is after 22 years that an industrial dispute was raised by the employee. Though there is no limitation prescribed under the Industrial Disputes Act, to deal with termination cases within a time frame, the raising of the industrial dispute after 22 years itself is fatal to the proceedings.

8. I find from the record and the impugned award that the employee was appointed as a clerk cum typist on 01/04/1984 and it was on 30/06/1988, that he was orally disengaged. No doubt he has raised an industrial dispute after about 22 years. This by itself would not mean that the Labour Court should refuse to entertain the reference case when the Industrial

Disputes Act does not specifically prescribe any limitation. In such cases, if an employee would succeed, the Court can mould the relief suitably and can refuse back wages from the date of disengagement till the date of the raising of an industrial dispute.

9. In the instant case, the Labour Court has not granted the relief of reinstatement, continuity or back wages to the employee. Though, on the one hand, the Labour Court concluded that the employee had worked for four consecutive years, on the other hand, it realized the pitfall in granting the relief of reinstatement in service / continuity, more so in view of the employee having raised an industrial dispute after 22 years. The Labour Court, therefore, rightly concluded that reinstatement would be impracticable.

10. Shri Dande, learned Advocate for the MIDC strenuously submits that it had denied employer employee relationship with the employee. MIDC had approached this Court in Writ Petition No. 3596/2015

when the Labour Court had earlier allowed the reference. This Court noted the objection raised by the MIDC and referred the matter to the Trial Court by adding the contractor through whom, the employee was allegedly deployed. An additional issue to this effect was also framed by the Labour Court. The record, however, reveals that the MIDC did not lead evidence to establish that the contractor was neither sham nor bogus and hence, this issue was not proved by the MIDC before the Labour Court.

11. There can be no debate that the MIDC does not have a dearth of funds. The Honourable Apex Court has concluded in between 2009 to 2013 in the above referred cases that compensation to a employee in lieu of reinstatement in service would be of a sum of about Rs. 40,000/- per year of service performed. With the passage of about 7 years, I find that the compensation could be slightly enhanced.

12. In view of the above, the first petition No. 151/2018 filed by the petitioner employee is partly

allowed. The quantum of compensation of Rs. 50,000/- is modified in the light of the judgments of the Honourable Apex Court and as the worker has worked for about 4 years, the MIDC, Nanded shall pay an amount of Rs. 2,00,000/- as quantified compensation to the employee within TWELVE WEEKS from today, failing which, the amount shall carry interest at the rate of 4 % per month from the date of the award. The employee would be precluded from raising any claim for monetary benefits under any enactment in view of the quantified compensation. Rule is, therefore, made partly absolute in these terms.

13. Consequentially, Writ Petition No. 2336/2019 filed by the MIDC, would not survive and stands disposed off. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

shp/-