

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

WRIT PETITION NO.10949 OF 2018

THE STATE OF MAHARASHTRA THROUGH DISTRICT
SUPERINTENDING AGRICULTURE OFFICER
VERSUS
SYED ANWAR ALI MAHBOOB ALI

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AGP for the Petitioner : Shri S.K.Tambe
Advocate for the Respondent : Shri Parag V. Barde h/f Shri M.K.Bhosle

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th March, 2020

Per Court:

1 On 01.10.2018, the following order was passed :-

- "1. The petitioner is the Department of Agriculture. The District Superintendent of Agriculture of Parbhani was a respondent in Complaint (ULP) No.18/2003 before the Labour Court at Nanded wherein the respondent had challenged his termination dated 01/07/1998 by filing Complaint (ULP) No.18/2003 (Old No.158/2003), registered on 30/12/2003.
2. The petitioner had taken a specific stand in paragraph No.5 of its written statement dated 23/09/2004 that the petitioner/ Department is not an Industry, model standing orders are not applicable and hence the complaint would be barred in view of Section 2(j) of the I.D.Act, 1947.
3. Further grievance is that despite the objection, no issue was cast to decide whether the petitioner is an Industry or not. Yet the Labour Court has allowed the complaint by the impugned judgment dated 03/11/2015 thereby granting reinstatement and continuity in service. The Industrial Court has dismissed Revision (ULP)

No.55/2015 by the impugned judgment dated 06/12/2016.

4. The petitioners have preferred this writ petition on 18/07/2018 after being arrayed as accused respondent in Criminal (ULP) No.8/2017 by which the petitioner District Supdt. Agriculture Officer alongwith two others is facing the said criminal proceedings.
5. Considering the above, issue notice to the respondent, returnable on 30/11/2018. In the meanwhile, the petitioner /Dist.Supdt. Agriculture Officer and the two accused respondents shall appear before the Labour Court at Nanded in the criminal proceedings and shall move an application for seeking exemption which the Labour Court would consider only if all three appear before the Court. Thereafter, the Labour Court would adjourn the criminal proceeding.
6. Copy of the petition paper book shall be supplied on or before 16/10/2018, failing which, this petition shall stand dismissed without further reference to the Court on 17/10/2018."

2 After this matter was heard for quite some time on 06.03.2020, I found it appropriate to direct the learned AGP to place before the Court the nature of activities and functions discharged by the petitioner/ Department of Agriculture, which is commonly known in Marathi as "Krushi Chikitsalaya".

3 Today, the learned AGP has tendered to the Court a compilation of 45 pages, which indicate that the Department of Agriculture has a scheme for appointing employees in class-2 and class-3 categories. The work that was being got done from the directly engaged

labourers, has now been discontinued by the Government Resolution dated 10.09.2001 and direct engagement has been stopped permanently. Instead, the Department of Agriculture now engages contractual employees.

4 On the one hand, the learned AGP prays for a remand to the Labour Court as the issue of whether, the petitioner is an industry or not, though raised, was not considered and on the other hand, it is submitted that there cannot any reinstatement in service even if the petitioner is declared to be an industry and the respondent is held to be entitled for reinstatement. The learned AGP, therefore, supports his contention on the ground that the direct engagement of daily wagers has been prohibited.

5 The learned advocate for the respondent/ employee submits that, with the above narrated situation prevalent with the petitioner today, no purpose would be served by remanding the matter to the Labour Court after 17 years of litigation when the employee is now about 52 years of age. His age of superannuation would be 58 years and the remaining six years would be consumed in further litigation. He, therefore, relies upon the following judgments delivered by the Honourable Supreme Court and prays for quantified compensation in view of the finding of fact given by the Labour Court that the employee has worked for 13 years :-

(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].

6 The learned AGP submits that he would pray for quashing of the impugned judgments and dismissal of the ULP complaint filed by the employee.

7 I find that the respondent is in litigation for 17 years. The Labour Court has concluded, on the basis of evidence before it, that the respondent had worked for 13 years. Though the petitioner had raised an objection to the maintainability of the complaint by contending that the Department of Agriculture would not be an industry, no evidence was led by the petitioner besides making a passing reference in its Written Statement in paragraph 5.

8 It is well settled that the proceedings cannot be remanded at the behest of a litigant, who has casually participated in litigation and has not supported its averment on jurisdiction by leading any evidence. If the

proceedings are now to be remanded, the clock will have to be reversed by 17 years and the respondent is now aged more than 52 years. Having spent his prime in litigation, remanding the proceedings only to enable the petitioner/ State to cure deficiencies that it had created on account of the manner of conducting the proceedings, would be a harsh order.

9 In view of the above, I find it appropriate to give a “quietus” to this litigation by awarding quantified compensation to the respondent/ employee. He has worked for about 13 years.

10 The learned advocate for the respondent prays for quantified compensation of Rs.10 lakhs. In the above cited four judgments of the Honourable Supreme Court, compensation was granted between Rs.30,000/- to Rs.50,000/- per year of service put in by the employee. The respondent would, therefore, be entitled for quantified compensation of Rs.6.5 lakhs.

11 However, the learned AGP submits that the Department of Agriculture is always in a financial crunch and all its activities are aimed at educating poor and marginal farmers from rural and tribal areas so as to enable them to improve their agricultural activities with the knowledge being imparted and experimentation being carried out by the Department of Agriculture. He, therefore, prays for reduction of compensation amount.

12 In view of the above, this Writ Petition is partly allowed. The impugned judgments of the Labour Court and the Industrial Court are

modified to the extent of grant of reinstatement with continuity in service. Instead, the petitioner/ State shall pay quantified compensation of Rs.5 lakhs to the respondent/ employee on or before 15.06.2020, by depositing the said amount in this Court. After the said amount is deposited, the respondent would be at liberty to withdraw the said amount under proper identification by the learned advocate and by placing on record a recent colour photograph, copy of the Voters Identity Card issued by the Election Commission of India and/or Adhaar card and a copy of the recent proof of permanent residence. The saving bank account details shall also be supplied for electronic transfer of the compensation amount.

13 It is made clear that the above said compensation shall be towards all entitlements of the respondent originating from his employment and non-employment with the petitioner and he shall be precluded from raising any further litigation of any nature whatsoever before any Court, Authority or Tribunal. In the event, the respondent adventures to do so, he shall first deposit the entire amount as a pre-condition.